10448. Also, petition of Rev. Edwin E. Hale and 80 other citizens of Indianapolis, Ind., petitioning Congress to defeat all measures proposing modification of the Volstead Act or repeal of the eighteenth amendment, and urging all necessary appropriations for maintenance and enforcement of the eighteenth amendment; to the Committee on Ways and Means.

10449. By Mr. MARTIN of Massachusetts: Petition of John F. Leahy and seven other residents of East Taunton, Mass., urging a revaluation of the gold ounce and the correction of financial abuses associated with mass production; to the Committee on Coinage, Weights, and Measures.

10450. By Mr. MEAD: Petition of citizens of Erie County, Buffalo, N. Y., urging enactment of the stop-alien representation amendment to the Constitution; to the Committee on the Judiciary.

10451. By Mr. NELSON of Maine: Joint memorial of the Senate and House of Representatives of the State of Maine, memorializing Congress to enact into law the Hill bill, H. R. 13999; to the Committee on Ways and Means.

10452. By Mr. SNOW: Memorial of the legislature of the State of Maine, memorializing Congress to promptly enact into law House bill 13999; to the Committee on Ways and Means.

10453. By Mr. SUMMERS of Washington: Petition signed by Bertha Speck and 42 other citizens of Yakima, Wash., urging adoption of the stop-alien representation amendment to the Constitution; to the Committee on the Judiciary.

10454. By Mr. STALKER: Petition of Christine Stickney, secretary of Circle No. 4 of the Church of Christ, Elmira, N. Y., and 25 other members, opposing the return of beer and the repeal of the eighteenth amendment; to the Committee on Ways and Means.

10455. Also, petition of Mrs. R. R. Birch, secretary of the Ladies' Aid Society, and 500 members; Mrs. C. C. Squier, secretary of the Women's Home Missionary Society, and 190 members; and Annie D. Payne, secretary of the Women's Foreign Missionary Society, all of the First Methodist Episcopal Church of Ithaca, N. Y., opposing the return of beer and the repeal of the eighteenth amendment; to the Committee on Ways and Means.

10456. Also, petition of Oswald Baker and 25 other residents of Ithaca, N. Y., R. F. D. No. 2, opposing every legislative act that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

10457. Also, petition of Florence M. Wheat, secretary of Taylor Philathea Class, and 57 members of class of the Disciple Church, Elmira, N. Y., opposing the return of beer and the repeal of the eighteenth amendment; to the Committee on Ways and Means.

10458. By Mr. WASON: Petition of citizens of Groveton, N. H., favoring the stop-alien representation amendment to the United States Constitution; to the Committee on Immigration and Naturalization.

10459. By Mr. WEST: Resolution of the Woman's Home Missionary Society, Mount Vernon, Ohio, urging legislation which will establish a Federal motion-picture commission, declare the motion-picture industry a public utility, regulate the trade practices of the industry used in the distribution of pictures, supervise the selection and treatment of subject material during the processes of production, and provide that all pictures entering interstate and foreign commerce be produced and distributed under Government supervision and regulation; to the Committee on Interstate and Foreign Commerce.

10460. By the SPEAKER: Petition of the Sons of Philippines, Salinas, Calif., expressing their viewpoint on the Dickstein bill; to the Committee on Immigration and Naturalization.

10461. Also, petition of citizens of the District of Columbia, opposing the enactment of any blue law for the District of Columbia; to the Committee on the District of Columbia.

SENATE

THURSDAY, FEBRUARY 16, 1933

(Legislative day of Friday, February 10, 1933)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Mr. HATFIELD obtained the floor.

Mr. FESS. Mr. President, will the Senator from West Virginia yield to enable me to suggest the absence of a quorum?

The VICE PRESIDENT. Does the Senator from West Virginia yield for that purpose?

Mr. HATFIELD. I yield.

Mr. FESS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Cutting	Keyes	Schuyler
Austin	Dale	King	Sheppard
Bailey	Davis	La Follette	Shipstead
Bankhead	Dickinson	Lewis	Shortridge
Barbour	Dill	Logan	Smith
Barkley	Fess	McGill	Smoot
Bingham	Fletcher	McKellar	Steiwer
Black	Frazier	McNary	Stephens
Blaine	George	Metcalf	Swanson
Borah	Glass	Moses	Thomas, Idaho
Bratton	Goldsborough	Neely	Thomas, Okla.
Brookhart	Gore	Norbeck	Townsend
Bulkley	Grammer	Norris	Trammell
Bulow	Hale	Nye	Tydings
Byrnes	Harrison	Oddie	Vandenberg
Capper	Hatfield	Patterson	Wagner
Caraway	Hayden	Pittman	Walcott
Clark	Hebert	Reed	Walsh, Mass.
Connally	Hull	Reynolds	Walsh, Mont.
Coolidge	Johnson	Robinson, Ark.	Watson
Costigan	Kean	Robinson, Ind.	White
Couzens	Kendrick	Russell	

Mr. WALSH of Montana. My colleague [Mr. WHEELER] is absent owing to illness. I ask that this announcement may stand for the day.

Mr. NORRIS. I desire to announce that my colleague the junior Senator from Nebraska [Mr. HOWELL] is detained on official business of the Senate.

Mr. FESS. I wish to announce that the junior Senator from Wyoming [Mr. CAREY] is detained on official business. I ask that this announcement may stand for the day.

Mr. WAGNER. I desire to announce that my colleague [Mr. COPELAND] is necessarily absent from the Senate because of the death of his father. I ask that this announcement may stand for the day.

Mr. SHIPSTEAD. I wish to announce that my colleague [Mr. SCHALL] is unavoidably absent. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

WITHDRAWAL OF CLOTURE PETITION

Mr. BINGHAM. Mr. President, on behalf of those who signed the cloture petition regarding the motion of the Senator from Wisconsin [Mr. BLAINE] to take up the proposed amendment to the Constitution, in view of the fact that the vote was had on yesterday, I ask to withdraw the petition.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT TO THE CONSTITUTION—REPEAL OF PROHIBITION

Mr. REED. Mr. President, I wish to enter a motion to reconsider the vote by which the amendment of the Senator from Arkansas [Mr. ROBINSON], striking out section 3 of the committee amendment, was agreed to last night.

The VICE PRESIDENT. The motion will be entered.

Mr. GLASS. Mr. President, I desire formally to offer Senate Joint Resolution 202 as a substitute for Senate Joint Resolution 211.

The substitute is as follows:

Resolved, etc., That the following is proposed as an amendment to the Constitution of the United States, which shall be valid to all

intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"ARTICLE —

"SECTION 1. Article XVIII of the amendments to this Constitution is hereby repealed. The sale of intoxicating liquors within the United States or any territory subject to the jurisdiction thereof for consumption at the place of sale (commonly known as a saloon), and the transportation of intoxicating liquors into any State, Territory, District, or possession of the United States in which the manufacture, sale, and transportation of intoxicating liquors are prohibited by law, are hereby prohibited. The Congress and the several States, Territories, and possessions shall have concurrent power to enforce this article by appropriate legislation.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

ATTACK ON LIFE OF PRESIDENT-ELECT ROOSEVELT

Mr. KEAN. Mr. President, I, like all the world, am much shocked at the dastardly attack upon the President elect yesterday. That any such thing could have happened with all the safeguards that are thrown around the President elect is beyond my comprehension, and it seems quite impossible to guard against such unexpected attacks. I express my deepest sympathy for the wounded and my congratulations to the President elect that he escaped. I would like to read into the RECORD a telegram which I have just received from one of the principal newspaper publishers of Paterson, N. J.:

PATERSON, N. J., *February 16, 1933.*

HAMILTON F. KEAN,
United States Senate:

Wire stories carry report that despicable Miami assassin was member of anarchist ring in Paterson. Federal and local investigations here thus far offer nothing even nearly definite to indicate this is so. Zangara's association here brief and intangible. In name of decency and fairness, and out of respect to the city of Paterson, which has given State and Nation some of its great men, I urge you to protest most vigorously against unfair maligning of our reputation. As representative of New Jersey I respectfully exhort you to use your every influence to prevent serious injury to the fair name of a community so law-abiding, so patriotic, and so sincerely devoted to everything worth while and decent. Speak out with emphasis and courage to repel this blasphemy, in the name of 140,000 decent souls.

HARRY B. HAINES,
Publisher Paterson Evening News.

Mr. President, Paterson gave to the United States a distinguished Vice President in the person of Garret A. Hobart and a distinguished Attorney General in the person of John W. Griggs, besides it being a leader in all patriotic work for many years.

ATTACK ON THE PRESIDENT ELECT—IMMIGRATION RESTRICTION

Mr. HATFIELD. Mr. President, I read from a morning paper, the Washington Herald, dated February 16, 1933, the headline:

Roosevelt escapes assassin at Miami. Cermak and four others shot.

The subheadlines of the paper state:

Anarchist is seized; confesses firing at the next President. Woman throws up arms of gunman in act of firing. Cermak, Chicago mayor, undergoes operation. President remains on yacht. Guards increased.

Mr. President, the frequent attacks that are made upon our Government are becoming almost continuous. The majority of cases where the assassination of a President has been attempted or carried out have been the acts of individuals who come from some other country with the idea of destroying the head of our Government and then bringing about its overthrow. This was the case in the assassination of President McKinley; also the attempted assassination of ex-President Roosevelt in the campaign of 1912 by John Schrank.

The attempt last night is by another foreigner, who has admitted he was in a plot to assassinate the King of Italy in 1911. The assassin is alleged to have stated after his arrest that he would kill all Presidents and all public officials and police officers.

Mr. President, there has been upon the calendar since the beginning of the first session of this Congress House bill 12044, sponsored by Congressman DIES and supported by the patriotic organizations of this Nation. Upon every call of the calendar there have been some objections made to its consideration in this body. The Labor Department, through its Secretary and those who have the responsibility of enforcing the immigration laws, have repeatedly said to the Committee on Immigration, of which I am chairman, that there is nothing the Congress of the United States can do that will more substantially supplement their efforts in dealing with the undesirables who come to our land, either by way of legal or illegal admissions, than the passage of this bill. The only change it makes in our present deportation laws is that it adds to section 1 of the act of October 16, 1918, the words, "aliens who are anarchists or communists."

Then the bill defines a communist as any alien who is a member of an organization that believes in the overthrow by force or violence of the Government of the United States, or the assassination of its public officials.

The passage of this measure, in my judgment, due to the times in which we live, and because of this overt act upon the part of this man who has attempted the life of our President elect, is so important and so timely that I feel, as an expression of resentment by this body, that we could do nothing better than to lay aside the unfinished business now before us and take up for immediate consideration House bill 12044 and pass it, and by so doing serve notice upon these man-killers who come to our land that we will not tolerate such action if within our power to prevent, and that it is our determined effort to rid this country of those who encourage sedition, those who instigate or participate in plots against the lives of our public men. The foreign element which advocates the overthrow by force or violence of the Government must be excluded.

Those in our own land who have acquired this abhorrent character of inspiration have derived it from those whose nativity and whose citizenship largely belong in some other country. We can deal with those, Mr. President, who have developed this inspiration under our own flag, who are an integral part of our citizenship; but we find it difficult for the enforcing department of our Government to deal with the alien who continuously preaches, after his admittance, against our institutions and advocates the doctrine of change by force.

The adoption of the measure to which I have referred will give the Labor Department an instrument with which to deal with this class of undesirable immigrants.

Mr. President, I ask unanimous consent that the unfinished business before this body may be temporarily laid aside and that House bill 12044 be taken up for immediate consideration.

The PRESIDENT pro tempore. Is there objection?

Mr. BORAH. Mr. President, we are working now under a unanimous-consent agreement to vote at 3 o'clock, and the time between now and 3 o'clock will not make any material difference in the situation so far as it could be remedied by the bill proposed by the able Senator from West Virginia. That bill will call for discussion, for it injects into our immigration laws a new principle, and one which I should not be willing to support without further debate. I shall have to object to the request for unanimous consent.

The PRESIDENT pro tempore. Objection is made.

Mr. ROBINSON of Arkansas. Mr. President——

Mr. HATFIELD. I yield to the Senator from Arkansas.

Mr. ROBINSON of Arkansas. Well, I yield to the Senator from West Virginia.

The PRESIDENT pro tempore. The Chair thought the Senator from West Virginia had yielded the floor.

Mr. HATFIELD. I had not, but I yield to the Senator from Arkansas.

Mr. ROBINSON of Arkansas. No, Mr. President; I thought the Senator had surrendered the floor.

Mr. HATFIELD. I have not surrendered the floor.

Mr. President, I do not in any way want to interfere with the consideration of the unfinished business that is

now before this body. I have great respect for the distinguished Senator from Idaho [Mr. BORAH], and I am quite willing to defer the consideration of House bill 12044 until 3 o'clock, at which time we will have concluded consideration of the unfinished business that is now before the Senate. So I amend my request and now ask unanimous consent that we take up and consider the House bill referred to at the conclusion of the unfinished business of the Senate.

The PRESIDENT pro tempore. Is there objection?

Mr. BARKLEY. Mr. President, I hope the Senator will not press that request now. I would not consent that the measure to which he has referred have precedence over a resolution which went over yesterday and which I expect to call up immediately after the vote on the prohibition matter. It may not take long to dispose of the resolution, but I will have to object at this moment to the request of the Senator.

The PRESIDENT pro tempore. Objection is made.

Mr. HATFIELD. Very well. I wish to give notice, Mr. President, here and now, that I will renew my request for unanimous consent at the conclusion of the consideration of the unfinished business; and if I can not obtain unanimous consent, I will then move to take up for consideration House bill 12044.

Mr. ROBINSON of Arkansas. Mr. President, the indignation, the resentment, and the sorrow expressed by the Senator from West Virginia respecting the incident which occurred at Miami, Fla., yesterday prompts response from every loyal American citizen. It occasions resentment to realize that such a cowardly and inhuman attack could be made upon the President elect and it provokes resentment in the breasts of all of us. We grieve, too, that others who were not the direct objects of the attack should have suffered serious injury.

There is one thing that must be understood that even in times of distress and disturbance, when forces which normally could not prove powerful may be augmented by anxiety and discontent and manifest themselves in such incidents as that to which reference is being made, still the people of this country are loyal to their Government. They are loyal to those intrusted with authority and would hedge them about with protection and security. Let it be understood that when the authority of the Government is about to be transferred all of us who are Americans, who love our flag and support its institutions, stand side by side, united in the purpose to preserve those institutions and to give protection to those who are charged with public responsibility.

We may complain, we may make mistakes, but, thank God, we have the best Government on this earth, and our flag is still the most beautiful that ever was uplifted into light. Pitiable it is beyond the power of language to portray that one who has the affectionate regard of all the right-minded, loyal citizens of America should be endangered by the effort and attack of an assassin.

GIUSEPPE ZANGARA, ASSASSIN, NOT ASSOCIATED IN PATERSON, N. J.

Mr. BARBOUR. Mr. President, I ask unanimous consent to have printed in full in the RECORD the telegram which I have just received from Mr. Harry B. Haines, publisher of the Paterson Evening News, of Paterson, N. J. He denies that the would-be assassin of President-elect Roosevelt is a resident of Paterson, as was reported in the press to-day.

There being no objection, the telegram was ordered to be printed in the RECORD, and it is as follows:

PATERSON, N. J., *February 16, 1933.*

W. WARREN BARBOUR,
United States Senator:

Wire stories carry report that despicable Miami assassin was member of anarchist ring in Paterson. Federal and local investigations here thus far offer nothing even nearly definite to indicate this is so. Zangara's association here brief and intangible. In name of decency and fairness, and out of respect to the city of Paterson, which has given State and Nation some of its great men, I urge you to protest most vigorously against unfair maligning of our reputation. As representative of New Jersey, I respectfully exhort you to use your every influence to prevent serious injury to the fair name of a community so law-abiding, so patriotic, and so sincerely devoted to everything worth while and decent. Speak out with emphasis and courage to repel this blasphemy in the name of 140,000 decent souls.

HARRY B. HAINES,
Publisher Paterson Evening News.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had passed the concurrent resolution (S. Con. Res. 42) to compile, print, and bind the proceedings of Congress in connection with the exercises in memory of the late President Calvin Coolidge, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a concurrent resolution (H. Con. Res. 49), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House is hereby authorized and directed, in the enrollment of the bill (H. R. 7522) to provide a new Civil Code for the Canal Zone and to repeal the existing Civil Code, to omit Senate amendments Nos. 15 to 23, inclusive.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

H. R. 4368. An act for the relief of the widow of George W. McDonald;

H. R. 6456. An act to amend section 98 of the Judicial Code, as amended;

H.R. 7518. An act to amend an act entitled "An act extending certain privileges of Canal employees to other officials on the Canal Zone, and authorizing the President to make rules and regulations affecting health, sanitation, quarantine, taxation, public roads, self-propelled vehicles, and police powers on the Canal Zone, and for other purposes, including provision as to certain fees, money orders, and interest deposits," approved August 21, 1916; and

H. R. 13710. An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1934, and for other purposes.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on Privileges and Elections:

Joint resolution memorializing the Congress of the United States to enact legislation for the nomination of candidates for President and Vice President in a primary election

Whereas the present convention system of nominating candidates for President and Vice President is undemocratic and has often resulted in manipulation by bosses and the selection of candidates not favored by the majority of the party members; and

Whereas the best method to enable the voters to control nominations is through a primary election: Therefore be it

Resolved by the assembly (the senate concurring), That the Legislature of Wisconsin hereby memorializes the Congress of the United States to enact legislation providing for the nomination of candidates for President and Vice President through a nation-wide presidential primary election; be it further

Resolved, That properly attested copies of this resolution be transmitted to both Houses of the Congress of the United States and to each Wisconsin Member thereof.

THOS. J. O'MALLEY,
President of the Senate.
R. A. COBBAN,
Chief Clerk of the Senate.
CORNELIUS YOUNG,
Speaker of the Assembly.
JOHN J. SLOCUM,
Chief Clerk of the Assembly.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on Finance:

Joint resolution memorializing Congress for higher tariff on dairy products

Whereas the United States Bureau of Agricultural Economics has listed the following figures for imports of dairy products into the United States for the year ending June 30, 1932:

Total value of all dairy imports into the United States, $14,293,000.

Amounts of dairy imports into the United States:	Pounds
Butter	1,838,000
Casein or lactarine	1,904,000
Swiss cheese	13,568,000
Other cheese	43,667,000
Condensed and evaporated milk and cream	1,470,000
Dried malted milk	818,000
Cream	118,000
Milk	280,000

Whereas thousands of farmers in various sections of the United States depend mostly on dairying for a living; and

Whereas it is evident from the above figures that farmers in other countries come into the United States and take away the market of the American farmer, thereby forcing the farmers in the United States to consume that which they produce themselves, or to seek a market outside of the United States; and

Whereas the present tariff on dairy products is no longer as effective as it was before many European countries abandoned the gold standard, with a consequent premium on American money in practically all European nations; and

Whereas importers claim that the European farmer can lay down his butter on the New York market and receive only 3 cents a pound for it, and still receive a larger return than he would obtain by the sale of this butter at home; and

Whereas this butter made in Europe, and paid for at the rate of 3 cents a pounds in the money of the United States, can be sold in New York for 20 cents a pound; and

Whereas to overcome the cheap production from abroad and prevent the European farmer from selling his dairy products in the United States, in ruinous competition with the American farmer: Therefore be it

Resolved by the assembly (the senate concurring), That the Legislature of the State of Wisconsin hereby respectfully memorializes the Congress of the United States to place a higher tariff on dairy products in order to protect the American farmer against foreign competition; be it further

Resolved, That properly attested copies of this resolution be transmitted to both Houses of Congress of the United States and to each Wisconsin Member thereof.

THOS. J. O'MALLEY,
President of the Senate.
R. A. COBBAN,
Chief Clerk of the Senate.
C. T. YOUNG,
Speaker of the Assembly.
JOHN J. SLOCUM,
Chief Clerk of the Assembly.

The VICE PRESIDENT also laid before the Senate a report submitted by the New York Stock Exchange Reform Committee of the Manhattan Board of Commerce to the president and members of the board of directors relative to activities of the Committee on Banking and Currency of the Senate pursuant to the resolution (S. Res. 84) to investigate the practice of "short selling" of listed securities upon stock exchanges and its effect on actual values (agreed to on March 4, 1932), together with a resolution adopted by the board of directors of the Manhattan Board of Commerce, requesting the Senate to proceed immediately to investigate the activities of its Banking and Currency subcommittee in investigating the New York Stock Exchange and other stock exchanges, etc., which, with the accompanying paper, was referred to the Committee on Banking and Currency.

WAR DEPARTMENT APPROPRIATIONS

Mr. BARBOUR. Mr. President, I present a certified copy of a concurrent resolution adopted by the Legislature of the State of New Jersey memorializing Congress to appropriate sufficient funds to carry out the provisions of the national defense act of 1920.

The concurrent resolution was ordered to lie on the table and, under the rule, to be printed in the RECORD, as follows:

SENATE OF NEW JERSEY,
Statehouse, Trenton, N. J.

Concurrent resolution adopted January 30, 1933

Whereas the platforms of the two great political parties of this Nation advocate the maintenance of an adequate system of national defense; and

Whereas the people of New Jersey have ever been in the front rank when the safety of this Nation has been endangered; and

Whereas the Organized Reserve will, in case of a national emergency, constitute by far the largest component of the Army of the United States and should therefore receive proper training and equipment; and

Whereas the Reserve Officers' Association of the United States, a patriotic body of citizens of whom the great majority have had active service in the Army of the United States during the late war, have requested the Committee on Appropriations of the House of Representatives and the Senate of the Congress of the United States to appropriate sufficient funds to carry out the training of the Organized Reserve for the fiscal year 1934: Then be it

Resolved by the Senate of the State of New Jersey (the House of Assembly concurring), That the Congress be, and it hereby is, requested to appropriate sufficient funds to carry out the provisions of the national defense act of 1920 and its accompanying legislation, so that the program of the War Department may be effectively carried out; be it further

Resolved, That the secretary of the senate is hereby instructed to forward certified copies of this resolution, signed by the president and secretary of the senate and the speaker and clerk of the house, to the following: The President of the United States, and United States Senate, the House of Representatives, the Senators and Members of Congress from the State of New Jersey.

A. CROZER REEVES,
President of the Senate.

Attest:

O. F. VAN CAMP,
Secretary of the Senate.
CHARLES A. OTTO, Jr.,
Speaker of the House of Assembly.

Attest:

ROBERT W. PURDY,
Clerk of the House of Assembly.

THE WORLD COURT

Mrs. CARAWAY presented a resolution adopted by the Arkansas Baptist State Convention at Little Rock, Ark., which was ordered to lie on the table and to be printed in the RECORD, as follows:

The Arkansas Baptist State Convention in Little Rock, November 15, 1932, unanimously passed the following resolution:

Whereas it is peculiarly appropriate for the Baptists of Arkansas, through their representatives in annual convention, to express their deep interest in the cause of world peace; and

Whereas the question of American participation in the World Court has been pending for six years and the United States, although among the first to recommend the establishment of a permanent court of international justice to the rest of the world in 1899, now remains the only large nation, with the exception of Russia, that is outside the court; and

Whereas this is not a party question, since both major party platforms of this year call for completing the adherence of the United States to the World Court; and

Whereas it will be obviously difficult to reach a record vote on ratification of the pending treaties at the coming short session of the Senate, which adjourns on March 4, unless the treaties are taken up early in this session: Now, therefore, be it

Resolved by the Arkansas Baptist State Convention, That we earnestly bespeak the influence of both of our Senators in getting the Senate to consider the World Court treaties early enough in the coming session to make it possible to reach a favorable vote before the session adjourns on March 4.

Respectfully submitted.

E. P. J. GARROTT, *President.*
J. B. LUCK, *Secretary.*

REPORTS OF COMMITTEES

Mr. CAPPER, from the Committee on Claims, to which was referred the bill (H. R. 3607) for the relief of Dr. M. M. Brayshaw, reported it without amendment and submitted a report (No. 1232) thereon.

Mr. LOGAN, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 2872. An act for the relief of the Dongji Investment Co. (Ltd.) (Rept. No. 1233);

H. R. 3905. An act for the relief of Maj. L. D. Worsham (Rept. No. 1234);

H. R. 8216. An act for the relief of the First National Bank of Junction City, Ark. (Rept. No. 1235);

H. R. 8800. An act for the relief of Laura J. Clarke (Rept. No. 1236);

H. R. 9336. An act for the relief of Emily Addison (Rept. No. 1237); and

H. R. 9476. An act for the relief of the Merchants & Farmers Bank, Junction City, Ark. (Rept. No. 1238).

Mr. FESS, from the Committee on the Library, to which was referred the bill (S. 5625) authorizing an appropriation to provide for the completion of the George Rogers Clark memorial at Vincennes, Ind., reported it with an amendment and submitted a report (No. 1239) thereon.

Mr. McNARY, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 3009) to extend the boundaries of the Fremont National Forest, reported it without amendment and submitted a report (No. 1240) thereon.

Mr. KEAN, from the Committee on the District of Columbia, to which was referred the bill (H. R. 13853) to authorize the merger of the Georgetown Gaslight Co. with and into Washington Gas Light Co., and for other purposes, reported it without amendment and submitted a report (No. 1241) thereon.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

Mr. VANDENBERG, from the Committee on Enrolled Bills, reported that on the 15th instant that committee presented to the President of the United States the following enrolled bills and joint resolution:

S. 220. An act authorizing adjustment of the claim of the Van Camp Sea Food Co. (Inc.);

S. 3438. An act authorizing adjustment of the claim of Lindley Nurseries (Inc.);

S. 4673. An act to amend an act entitled "An act to incorporate the trustees of the Female Orphan Asylum in Georgetown, and the Washington City Orphan Asylum in the District of Columbia," approved May 24, 1828, as amended by act of June 23, 1874;

S. 4694. An act to amend section 812 of the Code of Law for the District of Columbia;

S. 5289. An act to authorize the Commissioners of the District of Columbia to reappoint George N. Nicholson in the police department of said District; and

S. J. Res. 248. Joint resolution to amend the joint resolution entitled "Joint resolution to authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes," approved January 14, 1933.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. DALE:

A bill (S. 5645) for the relief of Anna Elizabeth Rice Denison; to the Committee on Foreign Relations.

A bill (S. 5646) granting a pension to Catherine Davis Broughton (with accompanying papers); to the Committee on Pensions.

By Mr. BLACK:

A bill (S. 5647) to revive and reenact the act entitled "An act granting the consent of Congress to the Highway Department of the State of Alabama to construct a bridge across Elk River between Lauderdale and Limestone Counties, Ala.," approved February 16, 1928; to the Committee on Commerce.

By Mr. METCALF:

A bill (S. 5648) granting an increase of pension to Lena Hook (with accompanying papers); to the Committee on Pensions.

By Mr. KING:

A bill (S. 5649) granting certain lands to Salt Lake City, Utah; to the Committee on Public Lands and Surveys.

By Mr. REED:

A bill (S. 5650) for the relief of Wayne Smallwood Vetterlein; to the Committee on Finance.

By Mr. JOHNSON:

A joint resolution (S. J. Res. 255) authorizing the Secretary of the Navy to sell surplus coal at nominal prices for distribution to the needy; to the Committee on Naval Affairs.

CHANGE OF REFERENCE

On motion of Mr. REED, the Committee on Military Affairs was discharged from the further consideration of the bill (H. R. 7232) providing for settlement of claims of officers and enlisted men for extra pay provided by act of January 12, 1899, and it was referred to the Committee on Claims.

RELIEF FOR THE UNEMPLOYED—AMENDMENTS

Mr. WAGNER submitted amendments, and also an amendment in the nature of a substitute, intended to be proposed by him to the bill (S. 5125) to provide for cooperation by the Federal Government with the several States in relieving the hardship and suffering caused by unemployment, and for other purposes, which were ordered to lie on the table and to be printed.

ISSUANCE OF STAMPED MONEY CERTIFICATES, ETC.

Mr. BANKHEAD submitted an amendment intended to be proposed by him to the bill (S. 5125) to provide for cooperation by the Federal Government with the several States in relieving the hardship and suffering caused by unemployment, and for other purposes, which was ordered to lie on the table and to be printed.

PRODUCTION COSTS OF COTTON FISHING NETS AND NETTING

Mr. AUSTIN submitted the following resolution (S. Res. 361), which was referred to the Committee on Finance:

Resolved, That the United States Tariff Commission is hereby authorized and directed to investigate for the purpose of section 336 of the tariff act of 1930 the differences in cost of production between the domestic article or articles and competitive foreign article or articles, and to report at the earliest practical date on the following items:

Cotton fishing nets and cotton fishing netting, classifiable under paragraph 923 of the tariff act of 1930.

PRINTING OF PROCEEDINGS OF THE MEMORIAL SERVICES IN HONOR OF CALVIN COOLIDGE

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the concurrent resolution (S. Con. Res. 42) to compile, print, and bind the proceedings of Congress in connection with the exercises in memory of the late President Calvin Coolidge, which were, on page 1, line 4, to strike out "twenty-five" and insert "fifteen"; in line 9, to strike out "eight" and insert "five"; and in line 10, to strike out "seventeen" and insert "ten."

Mr. WALSH of Massachusetts. Mr. President, this concurrent resolution provides for printing the bound volumes of the memorial exercises in honor of former President Calvin Coolidge. The House has reduced the number of volumes that may be printed. That reduction is agreeable to me; and I move that the Senate concur in the amendments of the House.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to.

AMENDMENT TO THE CONSTITUTION—REPEAL OF PROHIBITION

The Senate resumed the consideration of Mr. BLAINE'S motion that the Senate proceed to consider the joint resolution (S. J. Res. 211) proposing an amendment to the Constitution of the United States.

Mr. ROBINSON of Indiana. Mr. President, in all that has been said by the eminent Senator from Arkansas [Mr. ROBINSON] and my good friend the distinguished Senator from West Virginia [Mr. HATFIELD] I am in hearty accord. The incident at Miami was deplorable; the entire country is shocked and grieved.

Mr. FESS. Mr. President, will the Senator yield for a moment?

Mr. ROBINSON of Indiana. I yield.

Mr. FESS. I wanted to ask the Senator, who is a good lawyer, whether, in his judgment, there could not be some additional protection accorded to the man who occupies the Presidency of the country by the imposition of a more drastic penalty upon those who undertake to do a dastardly deed and yet fail, and by the fact of failure are relieved of the penalty that otherwise would be administered?

Mr. ROBINSON of Indiana. The Senator means the death penalty?

Mr. FESS. Yes; whether it is not feasible to undertake some additional protection to the high office of the Presidency.

Mr. ROBINSON of Indiana. I do not know what the result would be, Mr. President, but, so far as I am personally concerned, I believe that anybody who attempts to assassinate the President of the United States or the President elect of the United States ought to suffer the death penalty.

I desire now, Mr. President, to discuss the joint resolution which is pending before the Senate.

The PRESIDENT pro tempore. The unfinished business is before the Senate.

Mr. ROBINSON of Indiana. Mr. President, for the past three days we have been discussing the question of whether

or not intoxicating alcoholic beverages should be permitted to return legally. Three valuable days, three days during every one of the 24 hours of each of which untold thousands of people in America have been crying for bread, have been wasted in an academic discussion of a resolution that can have no effect possibly for the next 2, 3, 4, or 5 years. While measures are before this body that, if enacted into law, would provide relief for suffering humanity in America and alleviate agricultural conditions that are well-nigh intolerable, we continue to discuss the question of booze and the American saloon and whether or not they shall be tolerated in the future. We fiddle while the Nation burns, discussing a resolution which, if adopted, can only bring more misery to the country, and fail to consider measures that would unquestionably bring relief to millions of people under the American flag.

Mr. President, let nobody be deceived. This resolution is not for submission. Any one voting for the adoption of this resolution votes for the return of the American saloon with all its evils.

I have heard that some legislators occasionally believe that when they vote to submit an amendment of this kind somehow or other they are relieved of any responsibility either way. They take a neutral position. As a matter of fact, Mr. President, whoever votes for the joint resolution now before the Senate votes directly and deliberately for the return of the saloon. No other interpretation can be placed upon any vote in the affirmative. Not only that, but whoever votes for the adoption of this joint resolution requests the people in the State from which he comes to support that vote when the question comes up for decision by the various Commonwealths.

Mr. President, I understand perfectly well that anything I may say on this subject will doubtless have little effect. I assume it will influence no votes in this body; but I should feel myself derelict in duty did I not present to the Senate and to the country some observations that suggest my own line of reasoning with reference to this problem.

For years it has been a usual thing to see men, and women, too, going up and down the country insisting on the repeal of the eighteenth amendment, but also insisting equally as emphatically that they were against the return of the saloon. Evidently most of these advocates of repeal had their tongues in their cheeks when they made those pious statements. "Oh, no," said they; "we must never have the saloon again. We are opposed to the saloon." Even the Association Against the Eighteenth Amendment continuously stated their opposition to the saloon or its return; but, Mr. President, here we have the saloon back again.

This measure provides for the return of the saloon, pure and unadorned; and evidently the organized interests who have been advocating the repeal of the eighteenth amendment have used the lash and, notwithstanding their protestations to the contrary, have insisted that the saloon must come back. Out must go the eighteenth amendment. In must come the American saloon; and by a vote yesterday of 33 to 32 the Members of this body voted for its return. No other interpretation can be placed on that vote; and section 3 was stricken from the joint resolution.

"Happy days are coming back"; there is no doubt about it, Mr. President. One campaign pledge will be redeemed. We will have the American saloon back, and, presumably, happy days; but the "happy days" we sing about will be only a smoke screen, for back of that screen will be misery, human misery, far worse than it is to-day.

The question of the saloon has been with us always. It is nothing new. From the beginning of the Government we have had the liquor question and the saloon problem.

Mr. President, the first difficulty we had, in the way of revolt, after the Government was organized, was the saloon rebellion, the Whisky Rebellion, at the very beginning of Washington's administration; and we have had a whisky rebellion from then until now. This question has been in politics throughout all those years; and let no one here to-day think for a second that this joint resolution will take it out of politics. There is a right side and a wrong side, and in the end the right side will prevail.

For 133 years the American people tried to live with the saloon. I go further: For 133 years the American people did everything in their power to tolerate the liquor traffic. Local option was tried; license, State control, and every method the genius of man could invent was undertaken to find ways and means for living with the saloon, but all to no avail. It besotted manhood everywhere; destroyed homes; befouled womanhood and childhood; it controlled politics and corrupted government. Throughout those years State after State went dry, and the breweries and distilleries shipped their wares from wet States into dry States with impunity. They positively would not obey the law. There was no question about it. Finally the American people, discovering that the American saloon refused to be law-abiding, that it refused to yield to legal control, rose in their might and wrote prohibition into the basic law of the land in the form of the eighteenth amendment, and there it has remained until this day.

Now we propose—and I assume the votes are here to do it—we propose at 3 o'clock this afternoon to repeal that amendment as far as this body can do so. Ah, but, Mr. President, we go further. We not only propose to repeal the amendment but we propose to restore the saloon—the same saloon that all the liquor apologists during the past 12 years have insisted should never return; and we find a majority in this body for the restoration of that very saloon.

Mr. President, as soon as we bring back the saloon we shall have 48 State boundaries to police and patrol. One of the favorite arguments of the apologists for the liquor traffic during the past few years has been that the eighteenth amendment could not be enforced because we had the great Canadian boundary up there to the north, Mexico and the Gulf of Mexico on the south, the Atlantic Ocean on the east, and the Pacific on the west. It was impossible, they said, to enforce the law; and so rational, so reasonable are they, apparently so logical, that now they propose to add 48 more boundaries to those 4, and expect the American people to believe that in some manner or other it will be easier now to enforce the law and to patrol all of those additional boundaries than it was originally to patrol the four.

Mr. President, I am bound to say that the revenue will be disappointing. I do not think anybody expects any considerable revenue to come from this measure. I think the incoming administration will be utterly disheartened when they find how pitifully little money they get out of this traffic. The controlling reason is not revenue. It is twofold: First, to bring it back so that the thirsty may be supplied with little effort and, second, to transfer the income taxes from organized wealth to the backs of the beer drinkers of the country, those who have little means. That is the purpose. That means that more of the stuff will have to be drunk than is being consumed now, of course; and where is the money coming from to buy it, with 12,000,000 men walking the streets looking for work, with nothing to do, with no bread for themselves and their families? How are they going to get money to buy booze?

No; the revenue will be disappointing; but one result will come, Mr. President, and come immediately. As soon as this measure goes on the books, if ever, and if it requires some time for its ratification, if ever, I assume the beer bill will come before us and be promptly passed by the incoming Congress. That will mean that a saloon will be established within six months on every street corner throughout the country in all the cities, as they were before the eighteenth amendment; and then America will go on a spree the like of which was never heard of before. Everybody who can get the money with which to purchase, will drink—the young, the old, the rich, and the poor. This thing called prohibition has been so widely advertised and publicized that everybody will seek out liquor to learn more about it. It will not be safe to go on the streets, and everybody knows it, with 32,000,000 automobile drivers in the land. It will

not be safe to ride on the railways, to say nothing of the air and aviation. That will be one of the inevitable results, Mr. President. Then the pendulum will swing back, back, beyond any question of a doubt, toward decency.

Of course, the American people will be disgusted with the saloon, as they were for 133 years. There never was a period when they were not; and, of course, as soon as they become thoroughly disgusted with it, the sentiment will change; the people will rise again in their wrath, and out the saloon will go. There is no question about that.

This legislation will not take the saloon out of politics; it will put it back into politics. Bootleggers will continue to bootleg; illicit distillers will continue to distill illicitly; and illicit brewers will continue to ply their trade. Nothing will be bettered.

Mr. President, I do not criticize any of my colleagues in the slightest degree. They have as much right to their views as I have to mine. But I am wondering whether it does not make them dizzy sometimes dodging from one side of the street to the other every time the wind changes. It would give me the "jitters" if I had to change my position on this great moral question every time it looked as if there were a little flurry in public sentiment.

Mr. President, I should prefer to find the right side, a position which my conscience would assure me was correct, and then take my stand there regardless of politics, understanding full well that if the winds of public sentiment blew away from me sooner or later they would be bound to come back, and if they never did, then it would be no tragedy to anybody but myself, and that would amount to little.

Mr. President, I want to observe also, while I am on my feet, that the nineteenth amendment is the next in order. Let the good women of America take warning. There is no question in the world but that the warfare now will begin against the nineteenth amendment.

Mr. President, I went through the lobby committee's investigation three years ago with my distinguished friend the late Senator Caraway, of Arkansas, who was the honored chairman of that committee. We had before the committee the so-called wet leaders. We had before us those who were leading the movement against the eighteenth amendment. We interrogated them all, and with frankness that practically amounted to effrontery they charged that the nineteenth amendment enfranchising the women of the country was a mistake, that it ought to be repealed, and that if they could bring it about they would have it repealed. It is all in the record of the hearings for any Senator who desires to see for himself. Let the women of America beware!

There are other amendments in the Constitution which safeguard the liberties of our people; which make it impossible for men to be sent to their death without fair trial, which gives every citizen the right to be tried for any offense by 12 of his peers, his neighbors, by a jury. All of the rights of the American people are safeguarded in that document known as the Constitution of the United States.

It is not safe to tinker with the Constitution. We never have done so. In 144 years of glorious history we have never yet repealed an amendment which went into the Constitution after the people had sanctioned it, and I submit that it is dangerous to tamper with the basic law. If the eighteenth amendment should be repealed, the nineteenth would be next in order. Then some one would want another amendment out, and the first thing we knew, the safeguards of freedom for the American people would be destroyed.

Mr. President, before the lobby committee to which I have referred correspondence was read; it is all in the RECORD, one letter from Irénée du Pont, as I remember—it was one of the du Ponts, and I think it was Irénée—to one of his friends stated in substance that the reason why he was so actively against the eighteenth amendment was that he wanted to restore beer, and that if beer could be restored, it would save one of his corporations alone $10,000,000 annually in income taxes, because the tax would be transferred to the beer drinkers of America.

Who are the people who have brought this thing about? I say that it is a group of not to exceed 75 millionaires in America. They have furnished all the money for poisoning American public opinion on this question, and it is all in the record, if any of my friends desire to see it, as a result of the disclosures before the lobby committee in 1930.

Mr. President, regardless of politics, I purpose to take my stand. I refuse to dodge around back and forth on this question. My own opinion is that the American saloon is an evil second to none that might be conjured up in one's imagination. Therefore I shall certainly do everything in my power to prevent its return, and, of course, vote against the pending joint resolution.

May I not, before resuming my seat, read a few excerpts from a statement published by the Country Editor Publishing Co. (Inc.) under the heading "The Poor Man Pays the Bill." I read:

> In considering present conditions there may be some comfort in the reflection that probably no social system can be so devised as to render it immune to attacks from its predatory elements. The whole mass, as a matter of fact, is inherently selfish and, therefore, cohesive; otherwise it would disintegrate, every separate unit would strike out for itself, and anarchy would ensue. So, however idealistic the original conception may be, the scheme must be worked out practically by reconciling the idealism toward which the race is eternally striving with those other provisions which are indispensable to the physical existence of each individual.
>
> There ought not, of course, to be any material subversion of the aspirations toward higher moral levels such as we are at present experiencing. There ought not to be in the political field any complete surrender by the legislative branch to the least desirable constituents of the population such as seems to be impending as soon as the new Congress can be brought into action.
>
> This surrender, it can be plainly seen, is infectious. The politician in local as well as in national affairs is misled by the talkativeness of the almighty dollar. The still, small voice of the moral sense of the Nation is drowned by the lusty-lunged mouthpieces of organized wealth.
>
> And organized wealth is not concerned with the moralities of the situation. It traffics in what it considers more tangible merchandise; it carries out its purpose by playing upon the weaknesses of human nature, and it thrives best, therefore, when the moral sense of the Nation is in suspension.
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> * * * * * * *
>
> The most disturbing feature, however, will be its (the new Congress) subservience to the crowd that temporarily has the whip handle and is using the lash mercilessly on everyone who dares to oppose it. This crowd is meeting with surprising success mainly because for the time being the political influence of those who have sought to guide the Nation into a cleaner moral atmosphere is at a low ebb. In reality their following represents by far the majority of the population, but they have been rendered inarticulate, and therefore demoralized, by the power of huge aggregations of wealth in the hands of a few men, functioning first in the national conventions and now at the Capitol in Washington.
>
> These men have made no secret of their intentions. Indeed, their chief spokesman, testifying before a congressional committee, boasted that his financial backers represented more than $10,000,000,000 of corporate and individual wealth. In the face of such an offensive it is not strange that the voice of the churches has been silenced. It is not strange that the big dailies have the effrontery to refer to these religious organizations as a collection of bigots and hypocrites. The almighty dollar does not believe in mincing words while it drives its chariot exultantly through the "common herd" on the road to its objective. It is not afflicted with a troublesome conscience. Those who will not get out of the way it destroys.
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> * * * * * * *
>
> It would seem so. The megaphone of the rich and powerful is calling loudly for liquor, and more liquor, so that the Budget may be balanced by making the poor man pay through the nose as he gulps down his schooner of lager and stands, maudlin drunk, at the bar, sumptuously furnished for him by the manipulators of $10,000,000,000 worth of the country's wealth.
>
> Balance the Budget with the nickels of the poor! That is the rich man's cry to-day. The billions lent to Europe were money poured into a rat hole. Therefore, let the poor man foot the bill as the saloon keeper rings up on his cash register the money that should have gone into shoes and stockings for the youngsters, and warm clothing, nourishing food, and wholesome amusements.
>
> The power of money, the saloon, unbridled greed, distillery, and brewery profits on the one hand, and, on the other, the country parsonage, the little red school house, the institution of the family, the protection of the children, the ideals of virtuous womanhood. Surely, it is an unequal struggle, a humiliating spectacle, a denial of inspiration and of leadership, a perversion of the destiny of a great people.

Mr. President, as far as I am concerned I shall stand on the side I believe to be the right side. Others, of course, will make their own decisions. I shall vote against the repeal resolution.

Mr. GLASS obtained the floor.

Mr. BULKLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Virginia yield for that purpose?

Mr. GLASS. I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Cutting	Kendrick	Russell
Austin	Dale	Keyes	Schuyler
Bailey	Davis	King	Sheppard
Bankhead	Dickinson	La Follette	Shipstead
Barbour	Dill	Lewis	Shortridge
Barkley	Fess	Logan	Smith
Bingham	Fletcher	McGill	Smoot
Black	Frazier	McKellar	Steiwer
Blaine	George	McNary	Stephens
Borah	Glass	Metcalf	Swanson
Bratton	Goldsborough	Moses	Thomas, Idaho
Brookhart	Gore	Neely	Thomas, Okla.
Bulkley	Grammer	Norbeck	Townsend
Bulow	Hale	Norris	Trammell
Byrnes	Harrison	Nye	Tydings
Capper	Hastings	Oddie	Vandenberg
Caraway	Hatfield	Patterson	Wagner
Clark	Hayden	Pittman	Walcott
Connally	Hebert	Reed	Walsh, Mass.
Coolidge	Hull	Reynolds	Walsh, Mont.
Costigan	Johnson	Robinson, Ark.	Watson
Couzens	Kean	Robinson, Ind.	White

The PRESIDING OFFICER. Eighty-eight Senators having answered to their names, a quorum is present.

Mr. GLASS. Mr. President, on last July 16 the Senate voted on Senate Joint Resolution 202 offered by me and by a recorded vote of 37 yeas to 21 nays decided to make it the order of business. Subsequently it was displaced by an appropriation bill. I have now offered it as a substitute for the pending Senate Joint Resolution 211.

I had hoped, Mr. President, to discuss the question in a practical way. I have never in either House of Congress in a service of 30 years felt it desirable to speak only for home consumption. If the Senate has no desire to hear these grave matters discussed I am not going to exhaust my reserve strength or that of the Senate either by undertaking a discussion of the question. Therefore, with a meager attendance of Senators, I shall accordingly abbreviate as much as possible my intended exposition of Senate Joint Resolution 202.

Mr. President, I have never voted anything but the prohibition ticket in my life when the issue was live and practical. I am not a zealot on the subject, but whenever opportunity has afforded I have invariably voted to banish intoxicating drinks. However, I realize, as other observant persons must realize, that the experiment of national prohibition seems to have proven an utter failure. What the causes may be, no man may accurately say. There are a multiplicity of them and they are of a varied nature. One of them in my considered judgment is the fact that moral lepers and statutory criminals have had the effrontery to assume leadership of the moral forces in the country. I think that fact has made a tremendous contribution to the reaction throughout the United States against prohibition as a national problem. There are some few things worse than liquor. But in any event, whatever the causes are, whatever their nature, every observant person must know that there has been this reaction.

There has been a tremendous demand for a resubmission of the question to the States for further determination. It has always been my view that there is just as much reason and equity in the general demand for resubmission of the prohibition problem as there was in the demand in the first instance for the submission of the eighteenth amendment to the States for ratification or rejection. Therefore, reluctantly I have joined the forces which are demanding a resubmission of the question.

I was on the platform committee of the national Democratic convention at Chicago, and there was no difference of judgment as to the desirability of submitting the question to the States for further consideration. The Democratic convention of my own State, to which I owe primary allegiance and of which I am their representative here in the Senate and not of any national convention, declared for a resubmission of the question. But concurrently with that declaration the Virginia Democratic State platform denounced the return of the saloon and by implication advocated a submission in the form of a proclamation against the return of the saloon.

The Democratic National Convention at Chicago denounced the return of the saloon. It may be said that by implication at least it advocated action by the States against the return of the saloon and that is granted. But that declaration, I contend, did not necessarily preclude a constitutional reservation against the return of the saloon. On the other hand, the Republican National Convention at Chicago textually and in terms demanded a constitutional reservation against the return of the saloon.

In all the last campaign, so far as I was able to observe—because I was not permitted on account of physical disability to participate actively in the campaign—it was urgently insisted by candidates and the press that there should not be a return of the saloon. So that, far from naked repeal of the eighteenth amendment being the commanding issue of the campaign, it was not an issue of the campaign, the differences between the two parties being so indistinguishable that the widespread contention was that the liquor question was utterly subordinated and the economic issues of the campaign were predominant.

For myself I have said, and now repeat, that I do not attach any great degree of sanctity to platform declarations as contradistinguished from a Senator's obligation under oath to follow his own judgment and his conscience in matters of this kind. I note that the Judiciary Committee of the Senate attached no sanctity to convention declarations, either the Democrats or the Republicans on that committee, for they utterly rejected and disregarded the textual declaration of both the Republican and the Democratic national platforms, in that Senate Joint Resolution 211, as reported by the Judiciary Committee, provides not for the submission to conventions called solely for the purpose of deciding this question but rather to legislatures, as has been the invariable practice. Therefore, if the distinguished lawyers composing the Judiciary Committee of this body may thus lightly brush aside party platform declarations, the laymen among us may as readily and as safely disregard those declarations in other respects. However, it is not my purpose to disregard them materially. On the contrary, it is my considered view that unless we shall regard the declarations of both major parties it will prove impossible to submit this question at all to the States.

Let us consider that phase of the subject for a moment. Some of us on this side have stressed party declarations. Let us assume that there is a certain sanctity about such declarations. Why should the Democrats assume that the Republicans owe less allegiance to the declarations of their party platforms than we presume to avow for the declarations of the Democratic National Convention?

Mr. BULKLEY. Mr. President, will the Senator from Virginia yield to me?

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Ohio?

Mr. GLASS. I yield.

Mr. BULKLEY. The Republican platform expressly declares that as to this particular subject no one may be bound by the platform pronouncement.

Mr. GLASS. The Republican platform expressly declares that while in dealing "with the evils inherent in the liquor traffic," the States shall be allowed "to deal with the problem as their citizens may determine," such dealing shall always be subject "to the power of the Federal Government to protect those States where prohibition may exist and safeguard our citizens everywhere from the return of the saloon and attendant abuses."

Mr. BULKLEY. But the platform goes on to declare——

Mr. GLASS. Oh, I know.

Mr. BULKLEY. The platform goes on to declare that no Republican need be bound by its declaration on this subject, and that it shall not come in conflict with anybody's conscience.

Mr. GLASS. I do not intend that my party platform shall ever come in conflict with either my judgment or my conscience, if the Senator from Ohio wants my view on the subject.

However, to return to the point: I say if submission be desired, it is my view that we can never get it except by regarding the platforms of both major parties, for the simple reason that the Republicans have now but one majority in the Senate, the Democrats being in the minority, and, if the Republicans observe their party platform, where are we going to get the necessary two-thirds to submit the question? We shall not have it in the next Senate. Where are we going to get it?

Something has been said on the other side of the Chamber about keeping faith with party declarations. The distinguished Senator from Connecticut [Mr. BINGHAM], now absent, I regret to say, undertook to charge the Democrats in the Senate with violation of their party platform, and yet he himself has violated his own party platform in his action and his votes here. I am a genuine submissionist; I believe that the American people in the respective 48 States are entitled to the privilege of voting on this question again; and it is because I do believe in submission that I want to have passed a resolution that has some prospect and hope of obtaining the required two-thirds vote in each House of the Congress.

Mr. FLETCHER. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Florida?

Mr. GLASS. I yield.

Mr. FLETCHER. I am wondering if the Senator would be willing to change his amendment, in the nature of a substitute, beginning in line 7, page 2, where it reads:

> The Congress and the several States, Territories, and possessions shall have concurrent power to enforce this article by appropriate legislation.

In other words, I do not like the "concurrent power" provision.

Mr. GLASS. I will say to the Senator when the proper time arrives I will be glad to make any reasonable concession that will assure us the prospect of submitting this question to the States.

Mr. FLETCHER. Very well. I should like, however, to have the Senator devote a little thought to this phase of the question. I recognize, of course, that the Congress has power to regulate interstate commerce and to prohibit the movement of wet goods into dry States and that sort of thing. That is in the law now; we do not need to express that in a new amendment to the Constitution.

Mr. GLASS. Oh, I understand that, Mr. President.

Mr. FLETCHER. But as to the control of the saloon and the provision of the proposal the Senator offers with reference to the sale on the premises, it seems to me that that might well be left entirely to the States and not have the power concurrently vested in the Federal Government and the States.

Mr. WALSH of Montana. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Montana?

Mr. GLASS. Yes; I yield to the Senator from Montana.

Mr. WALSH of Montana. I wish to say a word, in view of what has just been stated by the Senator from Florida in relation to the second paragraph of the joint resolution as tendered by the committee.

It is true that the original Constitution authorizes Congress to prohibit the transfer of intoxicating liquors in interstate commerce. It is held, however, that that authority simply indicates the intention to have commerce free except as Congress may otherwise direct. It has been held that under the existing Constitution the right obtains on the part of any citizen to pass his goods into another State, and they remain under the protection of the Federal Constitution until they actually reach the hands of the consignee; so that they can not be stopped at the State line nor there fall under the jurisdiction of the State authorities, but the goods will not fall under the jurisdiction of the State authorities until they actually get into the possession of the consignee who may live in the center of the State. Meanwhile all manner of opportunity is afforded for the diversion of the intoxicating liquors from the consignee to whom they are addressed. Likewise, even then, the intoxicating liquor is protected by the commerce clause; if it remains on the siding in the car of the transportation company, it still remains under that protection, and if it goes into a warehouse belonging to the transportation company it remains under the protection of the Federal statute, and is immune from any control by State statutes until it actually reaches the possession of the consignee. The purpose of the provision in the resolution reported by the committee was to make the intoxicating liquor subject to the laws of the State once it passed the State line and before it gets into the hands of the consignee as well as thereafter. It was so decided in a case reported in One hundred and seventieth United States Reports, with which, I think, the profession generally is not particularly familiar.

Mr. GLASS. Mr. President, in my own interpretation of the resolution as I have presented it, there can be no consignee of intoxicating liquors in a dry State. Liquors may be shipped across a State in interstate commerce from one wet State to another wet State, but the resolution as I have drafted it prohibits the shipment of intoxicating liquors into a State whose laws prohibit the manufacture, sale, or transportation of liquors. So I have met the objection that we are undertaking to interfere with interstate commerce as between States which authorize the manufacture, transportation, and sale of liquors; but there can be no consignee in dry territory under the terms of my proposed amendment to the Constitution.

Mr. President, at every point in the presidential campaign when submission of this question was discussed, and whenever the objection was raised as to the return of the saloon, assurances were given that both parties, with unexampled unanimity, were opposed to the return of the saloon. The Democratic national platform, in spirit and by suggestion—indeed, by denunciation—objected to the return of the saloon. The Republican platform in text insisted upon a constitutional guaranty against the return of the saloon. So my joint resolution complies with both the Democratic and the Republican platforms; and that is the only way you are ever going to get the question submitted at all, as it requires a two-thirds vote. Moreover, not only is it the only way you are ever going to get it submitted but it is the only way you are ever going to get it ratified by 36 States of the Union.

The Anti-Saloon Leagueites rode to a precipitate downfall because of their spirit of intolerance and tyranny, manifested in various offensive ways on every occasion. Now some of these gentlemen who want to repeal the eighteenth amendment would better beware lest they find themselves riding to a downfall. They are manifesting a spirit that is calculated to arrest the reaction that we have had against the eighteenth amendment, and that will make it impossible to get 36 States to ratify the proposed repeal of the eighteenth amendment. It is my considered judgment that they will never get it on earth unless we make a constitutional reservation against the return of the saloon.

Yesterday there was stricken out of Senate Joint Resolution 211 the almost attenuated constitutional guaranty against the return of the saloon. If that policy is to be pursued, I predict now and here that you will never get two-thirds of both Houses of Congress even to submit the question, and much less is the likelihood that you will ever prevail upon 36 States of this Union to vote for a proposition that involves the return of the vile institution called the liquor saloon.

The intemperance of the saloon was the least objection to it. It was the breeding place of crime and immorality and vulgarity and profanity of every description. It was the rendezvous of the immoral and criminal elements. Its effrontery was unparalleled, because it sought to control and for a time succeeded in controlling the politics of the com-

munity, of the State, and largely of the Nation, so that any man who had a worthy aspiration to serve his people must first kotow to the liquor league in his State. Not only that, but if you submit this question without a constitutional guaranty against the return of this vile institution you will witness in this country a campaign such as we have never had, not even in 1928, when the presidential nominee of the Democratic Party over and over again proclaimed himself in antagonism to the return of the liquor saloon.

Ask the extreme Anti-Saloon Leaguers in what form they would prefer to have this question submitted, and those who are honest among them—and God knows there are enough of them who are not—will tell you that they would rather have it submitted for naked repeal, without the remotest constitutional guaranty against the return of the saloon; and why? Because it would enable them to stir the passions, to appeal to the emotions, rather than to the minds, of their people. It would enable them to organize all of the churches of this country again; and Heaven knows that their actions have already done harm enough to the churches of the country, and to religion itself. But, thus enabling them to appeal to the emotions of the church people, nobody can convince me that you will ever be able to get three-fourths of the States to ratify this amendment.

Mr. REED. Mr. President, will the Senator yield for a question?

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Pennsylvania?

Mr. GLASS. I do.

Mr. REED. May I preface the question by saying that I am in sympathy with every word the Senator has thus far uttered on this subject.

A good many Senators are obviously bothered by the continuance of Federal control in this matter; and while they are anxious to see the saloon outlawed, they would like to see it done by prohibition on State action rather than continuing this unsuccessful Federal effort to carry its police power into the States. I am wondering whether the Senator feels that the last sentence in section 1 of his amendment is essential. That is the one which gives concurrent power to Congress.

Mr. GLASS. No; I do not think it is essential. If I could be brought to believe that the joint resolution stands a better chance of passage by the elimination of that sentence, I should be glad to eliminate it, because the balance of the joint resolution gives us a constitutional prohibition against the return of the saloon.

Mr. REED. That is just what I want to see; and the question of the Senator from Florida [Mr. FLETCHER] a little while ago seemed to be animated by the same thought I had—that there are many votes that would be secured for the joint resolution if that grant of concurrent power to Congress were eliminated.

Mr. GLASS. That being so, I should be perfectly willing to eliminate that one sentence from the measure. All I want is a constitutional guaranty against the return of this abominable saloon system of dispensing intoxicating liquors—that is all—and if we write it into the Constitution I assume that no State would ever even undertake to violate the text of the Constitution by licensing a saloon.

Mr. REED. Obviously, if it did, its licensing law would be invalid.

Mr. GLASS. Why, absolutely so.

Let me recall the fact that it was Mr. Woodrow Wilson's idea that the administration of any law that we might have on the subject—it was his idea that the administration of the Volstead Act except as to interstate shipments of liquor and the importations of liquor should be confided to the respective States, with their varying habits, with their tempers and their facilities for knowing the habits of their own people, and with their greater ability to enforce the law. Less than three months before he died Mr. Wilson wrote a proposed declaration on this very subject for incorporation in the platform of his party at the succeeding convention, in which he declared that it would require all of the power and resources and ingenuity available to the Federal Government to do the one thing of preventing interstate traffic in intoxicating liquors and the importation of intoxicating liquors, and that the States themselves could more effectively and certainly enforce the letter of the Volstead Act than the Federal Government could.

Mr. BARKLEY. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Kentucky?

Mr. GLASS. I yield.

Mr. BARKLEY. The Senator may recall that when the eighteenth amendment was originally passed through this body it did not contain any provision for concurrent power to enforce its provisions, and that language was added in the House as a concession to the spirit of State rights, which prevailed probably more dominantly there than elsewhere.

I have always felt myself that probably it was a mistake to put in the original amendment the provision for concurrent power, and for that reason I am somewhat impressed with the suggestion of the Senator from Pennsylvania that that language is not only not necessary but probably unwise.

Mr. GLASS. It is entirely agreeable to me to omit that language.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Pennsylvania?

Mr. GLASS. I do.

Mr. REED. Then, passing that point, if the Senator will permit another question, it seems to me that it was made clear by the Senator from Montana [Mr. WALSH] and other previous speakers that the phraseology of section 2 of the joint resolution as it came from the committee is more satisfactory than the language in the amendment of the Senator from Virginia. I am wondering if, in the long run, we would not do best by inserting the prohibition against the saloon in section 3, to be added to what the committee has already put in regarding transportation into the dry States.

Mr. GLASS. That has been brought to my attention, and I am unable to see that that course would be any more effective than that proposed in my joint resolution. The language is simple. It is a layman's language. The lawyers find distinctions which I have not comprehension enough to follow and to understand.

Mr. REED. We can not help doing it when the Supreme Court puts those distinctions down as part of the law of the land.

Mr. GLASS. Not even the Supreme Court can help doing it, because on important matters its decisions are generally 4 to 5. But I am not willing to make the alteration suggested. Of course, it is for the Senate to say. I think the resolution as prepared, with the modification first suggested by the Senator from Pennsylvania, meets the issue in every respect.

Mr. BULKLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Ohio?

Mr. GLASS. I yield.

Mr. BULKLEY. Does the Senator conceive that, by the modification suggested by the Senator from Pennsylvania, the Congress would be deprived of jurisdiction to enforce the provision carried in the section above?

Mr. GLASS. I want the Federal Government to have as little to do with the matter as possible. I never relished the idea; and, as I stated a while ago, President Wilson never relished the idea, of sending Federal employees into the States, without any understanding of the habits and temperaments of the people of the several States, to enforce a law, and I want to exclude the Federal Government, as far as it is practicable to do so, from having anything to do with this matter. But I do insist upon a constitutional guaranty against the return of the saloon.

The candidates for the Presidency either meant what they said or they did not mean what they said when they stated that they were opposed to the saloon. The political parties, in State convention and in national convention, either meant

what they said or were merely thundering in the index to deceive the people when they stated they were opposed to the return of the saloon. If everybody is, as has been suggested, opposed to the return of the saloon, what possible objection can there be to asserting it in the Constitution of the United States and letting the States govern themselves accordingly?

Mr. REED. Mr. President, will the Senator yield to me for one more statement?

Mr. GLASS. I believe the Senator from Ohio rose first.

Mr. BULKLEY. I was only going to suggest that I do not think that even by the acceptance of the modification proposed by the Senator from Pennsylvania the Senator would avoid the problem of Federal enforcement in the respective States.

Mr. GLASS. I do not intend to avoid it completely. I intend that there shall be a constitutional prohibition against a return of the saloon, and a Federal court might invalidate a State law which undertook to disregard the Constitution.

Mr. REED. Absolutely, and it would be binding both on the States regarding action in their territory, and binding on us in Congress regarding the District of Columbia, Alaska, Hawaii, and the other Territories.

Will the Senator permit me to say one more word?

Mr. GLASS. Certainly.

Mr. REED. When the session opened to-day I entered a motion to reconsider the vote by which section 3 was striken out last night. In view of the decision of the Senator from Virginia to omit that last sentence in section 1 of his amendment, while I would like now to make the motion, I will not ask that it be acted upon until after the disposition of the Senator's amendment.

Mr. GLASS. That is very good of the Senator.

Mr. BARKLEY. Mr. President, will the Senator yield to me?

Mr. GLASS. I yield.

Mr. BARKLEY. I merely desire to suggest to the Senator that the elimination of this concurrent provision in the Senator's resolution would leave his resolution entirely analogous to the provision of the Constitution which now forbids any State to pass a law impairing the obligation of a contract. While there is no jurisdiction in the instrument giving Congress concurrent power to enforce that provision, Congress could enforce it, and would do so in this case.

Mr. GLASS. Mr. President, I want to get back to the vital point of this whole controversy; that is, does Congress want submission, or does it not want submission? That is the whole point. I have been unable to see how it is possible even to get submission, much less ratification, unless we regard the declarations of both of the major parties. How can any Senator on the other side vote against this Senate joint resolution I have proposed? It meets textually the Republican Party platform. How is any Senator on this side able to vote against it, when they overwhelmingly voted on July 16 last to take this resolution up and make it the order of the day, when there is nothing in the resolution which contravenes anything that is in the Democratic national platform, not a thing? It proposes to submit, and to submit, as I conceive, in the only way we can get submission. It meets the spirit of the declaration and the denunciation against the return of the saloon. We are not precluded from doing it simply because the declaration proceeded no further than to say, "We urge the States to enact laws against the return of the saloon."

Mr. BULKLEY. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. BULKLEY. I am one of those who voted to take up the Senator's resolution last July; but, of course, the resolution was subject to amendment.

Mr. GLASS. Oh, yes.

Mr. BULKLEY. I respectfully differ from the Senator as to this resolution being in adequate compliance with the Democratic platform.

Mr. GLASS. I imagine that there are other Senators who disagree with me; but that does not cause me to relinquish my own view of the matter.

Mr. BULKLEY. I did not want it to appear that I thought the Senator's resolution was a compliance with the Democratic platform merely because many of us voted to take it up last July. Of course, we voted to take it up.

Mr. GLASS. Oh, no; it was not "of course" at all. I had the greatest difficulty in prevailing upon the Senate to take it up.

Mr. BULKLEY. I am speaking of those who want to get the amendment repealed. Naturally we voted to take up the Senator's resolution for consideration, but it was open to amendment, and to the offering of a substitute.

Mr. GLASS. I have great respect for the opinion of my colleague from Ohio, and always have had, in this body and in the other House, but I have not altered my own opinion that a mere harmless and ineffective declaration of a party platform which promises to urge the respective States to do something does not preclude us from doing something in a more effective way, and giving the people of this country a constitutional guaranty against the return of an evil institution which we all say everybody is opposed to.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. CLARK. Does not the Senator think there is a very essential difference, as a matter of party declaration, between the declaration of a platform in which the Democratic Party urges the States to take some particular action in dealing with this situation, and writing it into the Constitution of the United Staes?

Mr. GLASS. I say there is a difference, because I think the party-platform declaration was not worth the paper it was written on, and I think the amendment would be worth everything it says.

Mr. STEIWER. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Virginia yield to the Senator from Oregon?

Mr. GLASS. I yield.

Mr. STEIWER. Just a moment ago the Senator from Virginia asked the question how the Senators upon the Republican side of the aisle could vote against the Senator's proposal. Speaking only for myself, I want to say that I do not propose to vote against his proposal; on the contrary, unless the Senator's proposal, or some other like reservation, shall be contained in the joint resolution, I shall be obliged to vote against submission at all.

Mr. GLASS. Yes; and many Senators on the other side, and many on this side, occupy the same position.

I do not owe any supreme allegiance to a party declaration that had nothing on earth to do with my presence in the Senate. I was here as the representative of a sovereign State before a few people conspired in a national convention to get a declaration which suited themselves, and which is impossible of being effectuated, either in the Congress, in my judgment, or through an appeal to the States for ratification.

Submit the question of naked appeal to the American people, with the inevitable consequence—let Senators say what they will—that there will be a liquor saloon on every corner of every community, and in every filling station on every highway, and see whether 36 States can be persuaded to ratify any such proposal.

It is that sort of tyranny of spirit, that sort of mistaken feeling of domination, that almost literally destroyed the Anti-Saloon League, and wrought a damage to the churches and to religion that will not be repaired in the next half a century by the fervent prayers of people who are worthy to wear God's robes in his visible church. It is that sort of thing that destroyed those people, and you had better beware but that it is that sort of thing that will completely upset your plans for the repeal or modification of the eighteenth amendment.

Mr. President, I think I can say no more than I have said, as I feel that I could say no less than I have said, and I submit the matter to the Senate.

Mr. GORE. Mr. President, the purpose of the substitute offered by the Senator from Virginia is to prevent the return of the saloon. I share his views upon that subject. I do not wish to see the saloon resurrected. I have often said that the saloon was as dead as human slavery. I have often said that it had no more chance to rise from the dead than human slavery. I can not vote to falsify my own words. I can not help to roll the stone from its grave. I shall, therefore, vote for the Senator's substitute. But I feel obliged to say that, whether his substitute is adopted or rejected, owing to an obligation imposed upon me by the organized Democracy of Oklahoma, I can not vote for either of the resolutions.

Mr. President, I will now have read for the RECORD, rather than for Senators, a plank from the Democratic platform adopted in 1930 in Oklahoma, upon which I made my race for the Senate, and upon which I obtained my commission and the seat which I now hold.

The PRESIDING OFFICER. The clerk will read.

The Chief Clerk read as follows:

We pledge the people of Oklahoma that if the Democratic candidates for United States Senator and Congress are elected to Congress they will oppose the repeal of the eighteenth amendment or any effort to weaken the Volstead law, unless and until the people themselves, by their expressed will, shall have otherwise directed.

Mr. GORE. Mr. President, the last phrase, "unless and until the people themselves, by their expressed will, shall have otherwise directed," was inserted at my instance and upon my own insistence. Otherwise this declaration, more or less iron-bound, as Senators see, would have been perpetual. Even had the people of Oklahoma in a referendum voted against national prohibition, this pledge as originally drawn would still have bound me. Had the Democracy of Oklahoma in convention assembled adopted a contrary declaration, this pledge would have bound me but for the addition of that phrase. But I interpreted it, and I think the people of Oklahoma interpreted it, to mean some action on the part of the State. I construed it that way, and I do not feel at liberty to disregard that sort of instruction.

I was not bound to accept the nomination on that platform, but I did. I could have renounced it and could have taken my chances, and if elected would not have been bound by this declaration. But I stated during the campaign that I would stand on this platform and carry out this pledge in good faith so long as it stood as the expressed will of the organized Democracy in Oklahoma. I therefore feel bound by this declaration. But for that declaration I would have been in a different situation; in view of the platform adopted at Chicago and in view of the ratification of that platform by the people of my State, I would have been at liberty to act otherwise; but in the circumstances I feel in conscience and in duty bound to obey such explicit instructions so solemnly laid upon me by the Democracy of my State.

Mr. CAPPER. Mr. President, I am opposed to repeal of the eighteenth amendment. So is the State of Kansas, which I represent.

Mr. President, our first duty is to the hungry, the unemployed, the tax-ridden, the impoverished farmers, and other victims of this terrible depression.

I am opposed to the repeal of the eighteenth amendment because I am opposed to the return of the saloon. The wets claim they do not want saloons, but they have not yet told us how they will resume the traffic in liquor without saloons. In the old times the saloon brought untold misery and suffering in its wake, particularly to innocent women and children who had to pay the price for the appetites of husbands and fathers.

The presence of the saloon is a constant temptation to many men. It is a constant menace to the home and to the economic welfare of the women and children. I am unalterably opposed to its return.

Right at this time, in spite of the hue and cry, the tumult and the shouting, this Congress has more important things to consider than the proposed legalization of the liquor traffic.

Legalization of the liquor traffic will not make the liquor traffic law abiding. Whether legal or illegal, those who deal in the manufacture and sale of intoxicating liquor will be lawless. The liquor traffic always has been essentially lawless, whether the traffic is recognized as legal and under regulation, or has been banned as illegal. It always has been lawless, always will be lawless.

Mr. President, the wets tell us that when liquor comes back it will end unemployment, produce prosperity, balance the Budget, make everybody happy; but it will not. We are constantly told that the country gave this Congress a mandate at the November election which directed the Congress to submit this repeal question to the States. Nothing took place in Kansas which could possibly be construed as a declaration for repeal. Every candidate on the State and congressional tickets in Kansas, Republican and Democrat, with one exception, ran on a prohibition platform. The one wet candidate was overwhelmingly defeated.

Right now I think bread is more important than beer. I have received a telegram from the executive board of the Rawlins County Farm Bureau. Rawlins County is in northwest Kansas. The telegram symbolizes the sentiment not only of Kansas but of practically the entire agricultural section of the great West. That telegram says:

We ask that you use your influence in insisting that a farm relief bill be given first consideration in this session of Congress and over any legislation affecting the eighteenth amendment.

That is exactly the stand I propose to take.

Understand, I am speaking from my viewpoint as a Kansan born and bred and as an American citizen who believes he holds the best interests of the people of this Nation at heart. This does not mean that I condemn those who have a different viewpoint but who equally believe they have the best interests of the people of this Nation at heart. Those persons and myself are just in disagreement, that is all. Each has a perfect right to his own convictions, his own belief, and has entire liberty of action to crystallize those convictions and beliefs into action, so far as I am concerned.

I am one of those who doubt that making it easier to obtain liquor would lessen the amount of drinking in the United States. In passing, let me say that some of the wets have been making at least one claim in the past few years that on its face is hypocritical. They assert they favor temperance; that repeal of the amendment and abolition of national prohibition enforcement would mean less drinking. That is not true. They want—or most of them want—more liquor, liquor more easily obtainable.

I doubt very much that making it easier to obtain liquor would lessen the amount of crime, for the very good reason that it never has lessened crime.

I am sure that making it easier to get liquor would increase the number of traffic accidents and all the troubles and miseries that liquor always has increased.

Mr. President, when, some 14 years ago, 46 States voted through their legislatures to place the eighteenth amendment in the Constitution it was not due to any sudden, overnight change of heart. Adoption of the eighteenth amendment was the culmination of many years of observation and experience; the result of testing many and various means for the control of liquor. It was the culmination of a long series of "noble experiments."

The States had tried, with high license, with local option, with State dispensaries, with other means, to make a law-abiding person of John Barleycorn. All these efforts had failed. The fact is John Barleycorn is not cut out for a law-abiding citizen. So the States and the people were looking for something better. They believed that with State and Federal regulation combined John could be looked after and guarded and held in restraint a little more closely in the public interest than he ever had been before.

A good start was made with prohibition. Then New York State, with a great liquor stronghold within its borders and a city government that never had obeyed any liquor law, went back on its agreement. New York early became a backslider. It repealed its State enforcement act and has insisted ever since that prohibition is a failure. A few

other States in which the liquor interests and liquor politics have always been strongly intrenched followed New York's example in nullifying the Constitution.

Of course, this did not help the experiment in national prohibition, nor has it been helped by the constant stream of propaganda against the law that has come from that part of the country.

Frankly, I am for continuing the experiment nationally. We went through similar experiences in Kansas for 30 years before we had really effective prohibition enforcement. It must be admitted that national prohibition has not been entirely successful up to date; but I am satisfied, and the most authentic statistics we have all indicate, that prohibition is doing more good than harm—if it is doing harm. The records of the Treasury and of the Department of Justice, studied calmly and dispassionately, prove the increasing efficiency of the law's enforcement.

I do not believe we should expect to wipe out an age-old curse like the liquor evil by statutory law in a dozen years nor in a score of years. If we are really making progress, as in many respects we undoubtedly are, we should be encourage by this progress, not discouraged, and should proceed to make more progress.

It is said that in spite of prohibition a man can get a drink almost anywhere in the United States. Doubtless that is more or less true. Also a man may still commit murder anywhere in the United States, and many men do, although laws against murder have been on the statute books for ages.

Mr. President, if there is any ideal way of handling the liquor traffic I do not believe the world has yet discovered it. In Canada the wets told the people if they would repeal prohibition, lawlessness would decline. Statistics from the office of the Dominion's attorney general show that during the eight years, from 1923 to 1930, lawlessness in the Dominion increased from 18 to 153 per cent. Canada's jails have never been so full as they are now, nor her courts so crowded with business.

All over the world a colossal struggle is going on between right and wrong. Crime has increased everywhere. As the population of the world is larger than ever before, I doubt if it ever has witnessed so gigantic a contest between good and evil as is now taking place.

In this country the wets point to prohibition as the cause of this condition. In Great Britain it is laid to "the motor age" and to the war. In one of its reports the National Probation Commission declares that prohibition is not one of the five major causes of crime in the United States. This flatly contradicts the oft-repeated wet argument.

The World War had much to do with this mushroom growth of every kind of wickedness throughout the world. But conditions for its rapid development had long been rife, especially in our graft-ridden American cities.

Greed is responsible for most of our economic troubles. Greed always has been behind the liquor evil. A lifetime of observation has convinced me that we shall never get anywhere by temporizing with liquor. All our history shows we never have.

Speaking in New York City, March 29, 1919, Al Smith, then Governor of New York, said:

> The liquor interests have opposed stubbornly, for as many years back as I can remember, every attempt at the regulation of their business.

I wonder if Al Smith really believes those interests would be more amenable to control and regulation now, if they should be flushed with a victory over national prohibition?

If we make liquor a State rights problem, as it is proposed to do, provided three-fourths of the States agree, which is not at all certain in spite of the present hysteria on the question, would we not then have 48 prohibition problems instead of 1?

Now, Mr. President, I want to ask one other question: What have the wets to offer in place of national prohibition? So far, nothing except a return to conditions as they were before the days of national prohibition.

For years the wets have been protesting publicly and often that they are in favor of temperance; that they oppose the return of the saloon. The wets' only definite plan so far is the repeal of the eighteenth amendment. I say that means the return of the saloon, and I am opposed to the return of the saloon.

Legalize and reinstate liquor to its old position before we had prohibition, and it will be only a matter of a short time until it will be flaunting its vices openly and publicly and gutterly on every street. Experience shows that the saloon, gambling den, and brothel go hand in hand; and the three, led by the saloon, not only debauch young and old but pollute the body politic, especially in cities, and breed corruption and racketeering.

The wet leaders well know that the moment liquor is legalized, both retailers and manufacturers will form the old-time political ring in order to "liberalize" and do away with whatever regulations and restrictions are placed upon their business. Bootleggers—who existed long before we had prohibition—are a corrupt element in the political life of some of our communities, but the bootlegger has much to learn in moral knavery and political skullduggery from the brewers, distillers, and saloon keepers of old days.

Mr. President, the wets are making a campaign of false pretences. They even claim legalization of the liquor traffic would help raise farm prices in this country—but the brewers propose to make beer from imported hops, mixed with some domestic production.

The farm organizations know better than this, and are much opposed to the move to destroy national prohibition. They know the small amounts of farm products used would be more than offset by the loss of dairy products alone. More men would buy more beer; fewer children would get milk.

Right here let me say that I not only am opposed to repeal of the eighteenth amendment but I am opposed to and will vote against any measure proposing to legalize the sale of beer of an increased alcoholic content ostensibly for the purpose of raising revenue. I shall oppose it first because I consider that is an attempt at legal nullification of the eighteenth amendment. I shall never support a program which nullifies my Government's Constitution.

In the second place, I am opposed to levying a beer expense of $3,000,000,000 upon the families of the American working men even though it does increase the revenues of the Federal Government a few hundred million dollars.

It is true we must get better farm prices if we are to recover from the economic depression, but beer and whisky will not bring them. My information is that a bushel of corn will produce 4 gallons of whisky. The farmer under the old system got 25 cents for his bushel of corn. It retailed at $16.40, of which Uncle Sam got $4.40, the manufacturer got $4, the retailer $7, and transportation costs were $1.15.

Again I say, Mr. President, that there is no help for agriculture in repeal of the eighteenth amendment.

Mr. WATSON. Mr. President, I want to submit a unanimous-consent agreement on the pending question.

Mr. WALSH of Massachusetts. To extend the time for debate?

Mr. WATSON. Yes. I ask unanimous consent that the time for debate be extended until 4.30 o'clock, and that no Senator shall be permitted to speak more than 10 minutes at any time from now on until that hour.

Mr. WALSH of Massachusetts. Mr. President, I hope that will be agreed to.

Mr. BLAINE. Mr. President, will the Senator restate his request?

Mr. WATSON. My request is that the time for debate be extended until 4.30 o'clock this afternoon.

Mr. NORRIS. Why not put it "not later than 4.30"?

Mr. WATSON. From the number of Senators who have told me that they wish to speak, I think debate will run until 4.30. However, I will say not later than 4.30, and that no Senator shall speak more than once nor longer than 10 minutes until that time.

The PRESIDING OFFICER. Is there objection?

Mr. BLAINE. The present unanimous-consent agreement is to take a vote upon the resolution and all pending amendments or motions at 3 o'clock.

Mr. WATSON. I am now asking to set aside that agreement and substitute for it another unanimous-consent agreement, which may be done by unanimous consent.

Mr. BLAINE. But the Senator's unanimous-consent request refers only to the length of time a Senator may speak.

The PRESIDING OFFICER. The Senator from Indiana submits a unanimous-consent request that the order by which we were to vote to-day at 3 o'clock be vacated and that there be substituted therefor the agreement that debate shall continue until not later than 4.30 o'clock this afternoon, no Senator to speak more than once nor longer than 10 minutes.

Mr. WATSON. And at 4.30 o'clock a vote shall be taken.

Mr. BLAINE. A vote on the resolution and all pending amendments and motions in relation thereto?

Mr. WATSON. Yes.

Mr. LA FOLLETTE. Mr. President, may I ask the Senator from Indiana whether the senior Senator from Maine [Mr. HALE] has been consulted concerning the arrangement?

Mr. WATSON. He has not.

Mr. LA FOLLETTE. The senior Senator from Maine, if the Senator will pardon me, is very anxious to leave the city to-night at 6 o'clock because of illness in his family. This morning he was very anxious to call up one of the appropriation bills after 3 o'clock. May I suggest to the Senator from Indiana that before the agreement is entered into he be given an opportunity to consult with the senior Senator from Maine?

Mr. ROBINSON of Arkansas. Mr. President, may I suggest to the Senator from Indiana that he limit his request at this time to the suggestion that debate be limited so that no Senator shall be permitted to speak more than once or longer than 10 minutes.

Mr. WATSON. I am entirely agreeable to do that.

Mr. ROBINSON of Arkansas. It is true, as stated by the Senator from Wisconsin, that the senior Senator from Maine [Mr. HALE] finds it necessary to leave the city on account of severe illness in his family—the very severe illness of a brother. He would like to obtain consideration of one of the appropriation bills before leaving, if it is possible to do so.

Mr. WATSON. I am in full sympathy with that suggestion, and I thank the Senator from Arkansas for making it.

The PRESIDING OFFICER. The Senator from Indiana asks unanimous consent to limit speeches from now until 3 o'clock to 10 minutes, no Senator to speak more than once.

Mr. WATSON. I am not willing to say that debate shall close at 3 o'clock.

Mr. ROBINSON of Arkansas. The debate has been closed at 3 o'clock by an agreement under which we are now proceeding.

Mr. WATSON. I understand that.

Mr. ROBINSON of Arkansas. I think if the Senator will modify his request so that speeches will be limited to 10 minutes, he will conserve the convenience of the Senate and the convenience of the Senator from Maine; and if that Senator, upon appearing in the Chamber, has no objection to the extension of time, I myself will not object; but this arrangement was made yesterday, and I do not feel that it ought to be changed now in the absence of the Senator from Maine.

Mr. WATSON. I would agree with the Senator, except for the fact that this is a most important question and we are all entitled to discuss it; every Senator wants to explain his views and his vote and his attitude toward his national platform and toward the situation generally.

Mr. ROBINSON of Arkansas. Mr. President, if the Senator persists in the request that he has made, I shall object to it——

Mr. WATSON. I shall not persist.

Mr. ROBINSON of Arkansas. For the reason that I have stated; but, if he will submit a request to limit debate to 10 minutes, so that no Senator may speak more than once or longer than 10 minutes, I will not object to that.

Mr. WATSON. I have submitted that request.

Mr. WHITE. Mr. President, I was going to say that unless my colleague is consulted I shall object to any modification of the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana?

Mr. BRATTON. Mr. President, I ask that the request may be stated.

Mr. HALE. Mr. President, I have not heard the request; I have just come into the Chamber.

The PRESIDING OFFICER. The request is that until 3 o'clock debate be limited to 10 minutes on the part of each Senator and that no Senator shall speak more than once. Is there objection? The Chair hears none, and it is so ordered.

Mr. DILL. Mr. President, during all my service in Congress I have always voted for prohibition and all measures in support of prohibition. To-day I shall vote for this resolution to submit the repeal of the eighteenth amendment to the States. In casting this vote I shall be entirely consistent. I have never changed my position as to voting on prohibition since I first came to Congress in 1914, nor shall I do so to-day.

At the election in 1914 the people of the State of Washington voted in their first referendum on prohibition, and in my campaign that year for election to the National House of Representatives I stated that, while I personally favored prohibition, if elected I would be the representative of the people in Congress; that, as such representative, I considered they were greater than I possibly could be; that when they went to the polls and legislated on any public question their will would be supreme, and that I would consider the vote of the majority at the polls to be a mandate which I would obey in Congress by voting on prohibition as they directed.

They voted dry. I kept my pledge with them by voting dry here in Congress.

In 1916 the people of the State of Washington voted again on prohibition on two referendum bills designed to weaken the prohibition laws of the State. They voted overwhelmingly dry, and in every campaign in which I have been a candidate since 1916 I have made the same pledge; namely, that, if reelected, I would vote in Congress on prohibition as the majority of the people of my State voted in a referendum.

In my last campaign, in 1928, when the wet issue was prominent, I stated that I considered the referendum votes of the people as an instruction to me to vote "dry," and that I would continue to vote "dry" unless and until the people by referendum vote changed their instructions.

During all these years I have kept that pledge by voting "dry" on every measure in behalf of prohibition that has come before Congress previous to this session.

But in 1932 we had in the State of Washington another referendum on the repeal of the prohibition laws. In that election the people in the referendum voted overwhelmingly "wet." That is a mandate for me to vote to submit the eighteenth amendment for repeal and to vote for such liberalization of the Volstead Act as is permissible under the Constitution. I shall so vote whenever these measures come before the Senate.

The people do not vote on the tariff, on taxes, on farm bills, or on the money question. They elect men to the House and Senate to pass on such legislation. On such questions I have always taken the responsibility of deciding how I should vote in conformity with the principles I have advocated and the pledges I have made in the past and for what I believed to be for the best interest of the people as a whole. This I shall continue to do.

If I were unwilling to keep my pledge to the men and women who elected me to carry out their will, as registered in the prohibition referendums of my State, I would consider myself faithless to my trust and unworthy of a seat in this body. To break faith with those whose votes I secured by such pledges would, in my estimation, be an embezzlement of

power given me by the people, and I would consider such action little less than treason.

Mr. REED. Mr. President, I think I can state my views in less than half the time that is permitted to me. I am one of those who have reluctantly become convinced that the prohibition experiment is a failure. I do not like to see us revert to the days which we knew before prohibition, the days of the saloon on every street corner. Consequently, Mr. President, feeling that way, and being a firm advocate of the principle of local option, I am glad to support sections 1 and 2 of the resolution as reported from the Judiciary Committee. I do not like section 3 because I do not want to see a concurrent power on this subject reserved in the Congress. Nevertheless, I do like the effort that section makes to prevent the return of the saloon.

The Senator from Virginia [Mr. GLASS] agreed to strike out that grant of concurrent power which appears on page 2, line 7, of his proposed substitute, and when that shall be stricken out I will be glad to vote for the substitute of the Senator from Virginia. If that amendment shall fail, I will then propose the amendment which I now send to the desk and ask to have read.

Mr. BULKLEY. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Ohio?

Mr. REED. Yes.

Mr. BULKLEY. Is it the Senator's view that striking out the provision in the Glass amendment concerning concurrent power will deprive the Congress of any power to enforce the proposal?

Mr. REED. Excepting in the District of Columbia and in the Territories the Congress will have no power to provide prohibition enforcement in the separate States, further than the power that it now has to regulate interstate commerce. It can prevent shipments into dry States; it can do that at present; it does not need any further grant of constitutional power for that, but I believe that striking out the concluding sentence in the first section of the Glass amendment will deprive the Congress of the concurrent power to conduct prohibition enforcement as it is now doing.

Mr. BULKLEY. To me it is an astonishing proposition that the Constitution should prohibit the saloon and still not have power to enforce its prohibition.

Mr. REED. Not at all. We prohibit a hundred different things in the Constitution. We say, for example, that the States may not coin money; we do not pass any laws about it; the Constitution by itself makes invalid every effort by the States to create their own currency. Now I ask that the amendment be read.

The VICE PRESIDENT. Let the amendment offered by the Senator from Pennsylvania be read.

The CHIEF CLERK. At the end of the joint resolution it is proposed to add a new section as follows:

SEC. 3. The sale of distilled spirits for consumption at the place of sale shall not be permitted within the United States or any Territory subject to the jurisdiction thereof.

Mr. ROBINSON of Arkansas. Mr. President, the statement just made by the Senator from Pennsylvania [Mr. REED] is to me astonishing. He proposes to place in the Constitution an inhibition against the establishment of saloons by the States and to justify that action on the ground that the Federal Government shall have no power whatever to enforce the inhibition.

Mr. REED. Mr. President, will the Senator yield?

Mr. ROBINSON of Arkansas. Certainly. I yield for a question.

Mr. REED. I did not say that the Federal Government would not have power. Of course the Federal courts would strike down any State law that established saloons.

Mr. ROBINSON of Arkansas. Well, Mr. President, if the Federal Government is to take away from the States the power to regulate the liquor traffic, in the event it should be legalized under any amendment that may be submitted, it is surprising to me that the Senator should desire to amend the Constitution so as to prohibit the establishment of saloons and also deny to the Federal Government the power to enforce that prohibition.

I maintain in all sincerity—and I believe the Senator from Pennsylvania will agree with me—that if the Constitution prohibits the establishment of saloons that is an implied grant of power to enforce the prohibition, and, if it is not, such a provision is worth less than nothing and ought not to be incorporated in any proposed amendment.

Mr. President, the debate has proceeded to-day on the theory that the States of this Union have few powers and that what powers they have ought to be subtracted from them. It is an astonishing proposition.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Virginia?

Mr. ROBINSON of Arkansas. I yield to the Senator from Virginia.

Mr. SWANSON. Of course, my vote on the various amendments and substitutes will be dependent upon the issues involved. I have a great regard, as have the people of Virginia, for the judgment of my colleague, the junior Senator from Virginia [Mr. GLASS], but as I understand section 2 as adopted last night, it prohibits the transportation and use of any intoxicating liquors in a State, Territory, or possession of the United States that prohibits such transportation and use by its own laws. Is that true?

Mr. ROBINSON of Arkansas. That is entirely true.

Mr. SWANSON. As I understand, if the sale of liquor and saloons were to be prohibited by the State of Virginia or the State of Pennsylvania or any other State in the Union, section 2, as adopted, would allow the Federal Government to prevent the transportation and use of intoxicating liquors within that State. Is that true?

Mr. ROBINSON of Arkansas. That is true.

Mr. SWANSON. Consequently, it is left entirely to the States to determine in what manner intoxicating liquors shall be sold or used and to what places such liquors may be transported. Is that established definitely under section 2 of the proposed amendment?

Mr. ROBINSON of Arkansas. I think that is true.

Mr. SWANSON. I should like to ask the Senator——

The VICE PRESIDENT. The Senator from Arkansas has the floor.

Mr. ROBINSON of Arkansas. Mr. President, I can not yield for other Senators to express their opinions in my time.

Mr. SWANSON. I merely asked the Senator if the premises stated by me are correct.

Mr. ROBINSON of Arkansas. The language of section 2 is perfectly plain.

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

That leaves to the States the power of regulation; it places the moral force of the Government of the United States behind the States in the enforcement of their laws; and that is exactly what we on this side of the Chamber are committed to, in so far as we can be committed by a platform declaration. Our platform states that we will—

Effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision and control by the States.

Mr. WATSON. Mr. President, will the Senator yield?

Mr. ROBINSON of Arkansas. Yes.

Mr. WATSON. The platform of the Senator's party says that " we urge the enactment " by the several States of such laws as will do that.

Mr. ROBINSON of Arkansas. The platform reads:

As will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision and control by the States.

That is what I read.

Mr. WATSON. Mr. President——

Mr. ROBINSON of Arkansas. I can not yield; the Senator understands that I have only a few minutes left. I should like to use a part of my own time.

The issue here is whether the Federal Government is going to take away from the States all power after repealing the eighteenth amendment, in the event the repeal shall be ratified. The question is whether we will say, "You must find some other way of disposing of liquor in the event your people are authorized to dispose of it."

Now let us look at this question from a practical standpoint.

Everybody condemns the saloon. I am no champion of the saloon, and never have been. I have submerged my personal views, in so far as I am able to do so, and have conformed them to the platform declarations of my party, believing that it is my duty to take that course. But suppose we say there never shall be a saloon, but there shall be the sale of liquor. How is it to be accomplished? Is that an implied declaration in favor of the State's going into the liquor business, in favor of the State's engaging in the sale of liquor? If we deny to the States all power in the determination of any question as to how liquor shall be disposed of, what are we going to see done about it? What is the practical effect of it?

Granting that the saloon is very unpopular, if liquor is to be sold at all it must be sold either in saloons or by State agencies, and I do not think that the Congress ought to be committed to the policy that we are choosing permanently between those agencies.

The States of the Union have some measure of responsibility. They have just as much ability to handle this question as the Congress has, and, from the way we are dealing with it, I am inclined to think just a little more ability than we are displaying. The character of the men who serve the States in public office is comparable in integrity and in capacity to that of those who serve the Federal Government. This is another illustration of the disposition of some in public life to take away all powers from the States; and I am not willing to do that, particularly in view of the declaration I have read.

The statement has been made by the Senator from Indiana [Mr. ROBINSON] that one who votes for the joint resolution as it has been amended votes for the return of saloons. That declaration is not sustained by the facts. We simply vote, in the event the amendment to the Constitution is ratified, that the States shall possess some power in determining how this liquor problem shall be handled.

I agree with the Senator from Kansas [Mr. CAPPER] that there is no ideal way of dealing with the liquor problem. We have been looking for such a way for almost a century, and it has not been found. Troubles and difficulties inhere in the problem, and they will not be solved by a declaration in the Constitution of the United States—which, as insisted by the Senator from Pennsylvania, there will be no power to enforce or carry out—that the States shall not deal with this subject in accordance with their best judgment. We say that we are opposed to the saloon, and yet in a time when saloons are unlawful we see them established and maintained in many communities where the law forbids them; and the question arises, or may arise, in the minds of many Senators, as to whether an unlawful speakeasy is a preferable institution to a licensed saloon.

I do not justify the saloon, and I hope that it may never return; and I have grave doubt, in whatever form this amendment is submitted, whether 36 States of the Union will ratify the amendment. I believe, however, that there is sufficient sentiment in the country favoring a change of present conditions, as they relate to the control of the alcoholic-beverage traffic, to justify this Congress in submitting the question to the people of the United States for their decision.

The VICE PRESIDENT. The time of the Senator from Arkansas has expired.

Mr. TYDINGS. Mr. President, it seems to me that to a great extent we have lost sight here of the real substance of this proposition. One Senator after another has risen on this floor and assumed a fact which does not exist—namely, that if we repeal the eighteenth amendment liquor is going to come back. I should like to ask when it ever went away.

Every man in this Chamber knows that the police records of the Capital of the United States—Washington, D. C.—show that in the 10 years following prohibition, as compared with the 10 years preceding prohibition, five times as many persons under 21 years of age were arrested for intoxication. Therefore, if five times as many persons under 21 years of age have been arrested in the 10 years following prohibition as were arrested in the 10 years preceding it, in the Capital of the United States, right here under the nose of Congress, what is the use of talking about liquor "coming back"?

Every man here knows that he can go to the telephone and have a bootlegger come up to his office and deliver liquor within a half hour. Every man here knows that New York and Chicago and every other large city are filled with speakeasies. We know that crime has grown on a scale never before seen in the history of any country. We know that gunmen have ruled our cities. Yet men have the effrontery, it seems to me, to stand here and say that we are "going back" to this wicked thing called liquor, when under the present condition it has corrupted more public officials and Government officers than ever before, increased drinking among the young, built speakeasies all over the land, and made hijacking and bootlegging and distilling in an illegal way the words of mouth of every citizen in this country.

I say that we never should have taken this question from the States. It is not a national question. It is a local question, and it can be solved best in the communities that have to deal with it. This Government never was conceived with the idea that we would reach out into every community and govern the habits and the morals and the religion of people in those communities. We were to deal with national questions only—the Army and the Navy, interstate and foreign commerce, post offices and post roads, and the rest of the 18 powers given to us by the Constitution. We had no right at all, except by turning our backs upon the philosophy of the Constitution, to go out in the States and assume this power and this control. The sooner we give it back to the States the sooner we shall establish law and order and decency and some respect for government.

When my friend the Senator from Indiana [Mr. ROBINSON] gets up and tells about the good women of this land who are going to be debauched with liquor he loses sight of the fact that the good women of this land are drinking more under prohibition than they ever drank under the old régime, and every man in this Chamber knows it. The Senator also knows that more youths are drinking to-day than ever drank before in the history of this Republic. He knows that there is more graft and corruption and hypocrisy in both high and low places than ever before happened in this country. He knows that out of 3,000 prohibition agents over 25 per cent of them were discharged for discovered corruption in the first eight years of the existence of so-called prohibition. He knows that there have been more murders in the city of Chicago in a single year than happened throughout Great Britain in 10 years of its history. He knows that a criminal ring has dominated that city. He knows that at this moment there are 5,000 speakeasies in New York City, and he knows that bootlegging and illicit distilling go on from one end of this Republic to the other.

Why do we not tell the truth about this subject and face the facts?

Mr. BROOKHART. Mr. President——

Mr. TYDINGS. We have made a dismal failure of the whole fabric of temperance. We have dragged this country down to a degraded point in its morals, in its temperance, in its public behavior, that never existed before in all its annals. Yet we stand here hoping to keep a part of this power which has not helped America toward temperance, in my judgment, but has only destroyed the temperance that we

have built up through decades of teaching and example and precept.

Mr. BROOKHART. Mr. President——

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Iowa?

Mr. TYDINGS. I yield for a question, if it is a brief question.

Mr. BROOKHART. Does not the Senator know that when Chicago had 7,000 legally licensed saloons it had 12,000 "blind pigs"?

Mr. TYDINGS. I do not yield further. Does not the Senator from Iowa know that right here in the Capital of the Nation, over which Congress has complete jurisdiction, five times as many persons under 21 years of age were arrested during the 10 years following the adoption of national prohibition as were arrested during the 10 years preceding it?

Mr. BROOKHART. Mr. President——

Mr. TYDINGS. Yes; but that does not count—of course not. The Senator does not want facts. He wants to chase a will-o'-the-wisp, the imaginative prohibition and temperance, instead of the actual thing itself.

Mr. BROOKHART. The Senator has asked me a question, and I should like to answer it.

Mr. TYDINGS. I have only four minutes left, and I refuse to yield.

Mr. President, in my humble judgment, trying to be as fair with all the circumstances as a human being can, I say that I believe that the open saloon was no worse, to say the very least, than the hidden, insidious speakeasy—not a bit in the world—except that we could see the saloon and see its evils; but because we sweep our dirt back of the door, that does not mean that the dirt has been swept out of the chamber.

Prohibition enforcement! Temperance! Morality! Where is it under the ægis of the eighteenth amendment? What are the gains? Where are they—with the young? With the women? Elimination of the saloon and substitution of the speakeasy? The crime, the murder, the graft, the corruption, the hypocrisy of men who occupy the highest legislative positions in the gift of this Republic? Are there any Senators in this Chamber who have violated the eighteenth amendment or the Volstead Act? Are there any Representatives in the other Chamber who have violated the eighteenth amendment? I do not say there are. Senators themselves know the answer to my question; and if this law can not be observed in those places, in God's name, where can it be observed?

Shall we be a bunch of hyprocrites, lashed by the lash of the Anti-Saloon League, in the face of 13 years of dismal failure; or shall we honestly face these facts as they are now presented, and as every one of us knows them?

We have made a failure of this thing. It was doomed to failure from its inception. We ought to be men enough to turn it back to the people of each community, who can settle it better than can we, having in view the conditions in their communities. New York can handle its problems better than the people of Oregon can handle the problems of New York for New Yorkers. Therefore, when we have made the experiment, when we have given it money, governmental support, new courts, new district attorneys, and hordes of agents, and we have failed, in God's name, in the interest of temperance, let us give it back to the States from whence it ought never to have been taken in the first place.

Mr. BINGHAM. Mr. President, the remarks made by the senior Senator from Arkansas [Mr. ROBINSON] a few minutes ago show a height of courage seldom seen on the floors of the Houses of Congress. Everyone knows his record. Everyone knows how consistent it has been in this regard. It is very difficult for a public man, it is very difficult for the Congress of the United States to admit that it has ever made a mistake. But we have been trying an experiment for the past few years. Every student of history knew that it would probably fail, because every time in the history of civilized nations a powerful central government has attempted to direct the morals and habits and beliefs of its people, it has failed.

When our Government was organized, when the Constitutional Convention was sitting in Philadelphia, the question was brought up as to whether the Congress of the United States should have the right to pass sumptuary legislation, legislation which would deal with the habits of the people, with what they ate, drank, and wore. But these celebrated fathers of the Constitution were keen students of history. They realized that in every great nation in the world when the central government had attempted to control the habits of its people, to make that wrong which custom made right, they failed; that a law could only be enforced when it was actually the crystallization of public opinion. They believed, and correctly, that sumptuary legislation could only be enforced when it was passed by the States or the communities therein, and, therefore, the Congress was not given that power.

Beginning about 1812, communities in the United States became alarmed at the growth of drunkenness, at the increase of intoxication, and steps were taken to meet that condition by prohibitory laws in various communities. About the middle of the nineteenth century a wave of prohibition resulted in some 18 States adopting prohibitory laws, but it was found that those laws could not be enforced. When communities containing people whose habits led them to enjoy and not to abuse intoxicating beverages wished to have their manners and customs continue as they had under their fathers and grandfathers for countless generations, they would find some means of accomplishing that result. Therefore, after a few years, nearly all the States, I think with the exception of Kansas and Maine, abandoned the position which they had taken theretofore.

Then came another wave of prohibition among the States, and it was tried for a while and abandoned. But in communities which had adopted a "no license" plan by the vote of the people in the community it was difficult, if not impossible, for a socalled blind tiger or speakeasy to exist.

Mr. President, in our country, where so many million people are descended from the inhabitants of European nations where for countless generations wine, beer, and other alcoholic beverages have been on the tables every day of the year, it is impossible by any law to make those people believe that their ancestors did wrong. It is impossible to make the people of Germany believe that beer is poison when they have seen generations of Germans using it as a daily beverage. It is impossible to make the inhabitants or the descendants of people of Spain, of Italy, Greece, or France believe that wine is a poisonous beverage. When it is abused, it is, indeed, harmful.

In adopting the eighteenth amendment, we interfered with the growth of temperance. I know that that statement is directly contraverted by ardent enthusiasts like my friend the junior Senator from Indiana [Mr. ROBINSON], who to-day maintained that a vote in favor of repeal, as we propose to vote to-day, is a vote for the return of the saloon in every State and in every community. That, of course, is a statement not actually founded on what will happen, for there is nothing in what we propose to do that will prevent any State or any community from deciding that it does not want to have alcoholic beverages sold in the community.

Where communities consist of people whose ancestors for generations have believed in the temperate use of wine and beer, it is utterly futile for the Federal Government to insist that it knows better, and to undertake to prevent alcoholic beverages from being sold where they are to be consumed.

In the News of to-day there is an editorial, very brief, which deserves reading for the benefit of the RECORD. It is entitled "The Senate's Opportunity" and reads:

THE SENATE'S OPPORTUNITY

The decision of the voters on November 8 has been put squarely up to the Senate.

The Democratic Senate leadership has met the prohibition issue squarely by rewording the Blaine amendment to make it a straight repeal measure, to be passed upon by the voters of the States through conventions.

The only proviso is a restatement of the Webb-Kenyon law, already on the law books, which would write into the Constitution the right of the dry States to have Federal protection against importation of liquor.

A vote at 3 o'clock has been ordered.

The amendment is the pledge of the victorious party—a party which obtained the largest popular vote in the history of the country, elected a President and Vice President and an unprecedented majority of the Members of Congress.

The amendment is an answer to 13 years of foolish attempt to legislate morality by Federal decree.

The Senate to-day, by passing this amendment, can put an end to this costly and absurd mistake.

We know of nothing that would do more to clear the deck for an intelligent attack upon the desperate economic problem confronting the country.

Mr. President, I know that those in favor of repeal are charged by the ardent advocates of prohibition with many crimes, with being interested in promoting the liquor business, with being interested in promoting the return of the saloon, and so forth, ad libitum, ad nauseam. But a study of the figures in regard to intoxication, referred to in part by the Senator from Maryland in his speech a few moments ago, gives clear evidence of the fact that under prohibition temperance has decreased and not increased. Two years ago, from figures which were before the committee, it was shown that there were more people arrested for intoxication in the United States than in the year before prohibition was adopted. Worse than that, far more young people were arrested. Prohibition was adopted to keep the young people from ever knowing the taste of alcoholic beverages. Yet in the city of Cleveland year before last 30,000 persons were arrested for intoxication. The courts in that city keep a record of the ages of persons arrested for intoxication, and we were told by a judge of one of the courts that the average age of those 30,000 persons was only 25 years. In other words, 15,000 of those persons were under 25 years of age, and when prohibition was adopted were not more than 11 or 12 years of age, although it was to keep young people from ever knowing the taste of intoxicating beverages.

The story is the same all over the country. High-school children who never thought of partaking of alcoholic beverages or spirituous liquors in the days before prohibition now think it is the smart thing to do. There are communities where no high-school society or sorority or other organization can even secure a club or a hotel in which to hold an annual dance because of what goes on.

It is because those of us who have studied this question free from bias, and interested only in promoting temperance, have come to the conclusion——

The VICE PRESIDENT. The time of the Senator has expired.

Mr. BORAH. Mr. President, after listening to the debate to-day, particularly on the subject of the saloon, I have become convinced that there will be no way to prevent the return of the saloon if the eighteenth amendment shall be repealed. I agree with everything the able Senator from Virginia [Mr. GLASS] has said with reference to the saloon, and I am just as much opposed to its return as anyone could possibly be. No power on earth could keep that institution clean, or make it respectable, and I do not want to see it returned. For that reason I am going to vote against the repeal of the eighteenth amendment.

Mr. President, what is the situation now? We have in the Constitution the eighteenth amendment, which prohibits the sale of intoxicating liquors, and prohibits their being sold and drunk upon the premises where sold. Gentlemen come to us now and say that we must repeal that amendment because we can not enforce it. Yet they say to us in the next breath, "If you legalize the sale of intoxicating liquors, the National Government can effectively prevent their being drunk on the premises where sold." In other words, we are asked to turn back to the States the power to do everything except control the places where liquor may be consumed. In my opinion, under any possible amendment which can be drawn, that would be a practical impossibility. If we can not prevent liquor being drunk on the premises of 5,000 saloons in New York to-night, when it is illegal to sell it, could we prevent it being drunk upon those premises after it was made legal to sell it?

The only way to fight the American saloon is to fight it as it was fought when we adopted the eighteenth amendment, that is, to outlaw the liquor traffic and make it an outlaw under the laws of the United States. If we have not the courage to enforce the law against sale, shall we have the courage to enforce the infinitely more difficult task of preventing the place of drinking legally sold liquor?

Suppose, as an illustration, there were in the State of New York a system which permitted the sale of nonintoxicating liquors in a saloon, but the Government said that intoxicating liquors should not be sold. Then suppose intoxicating liquors were sold in some saloon. It is proposed to take away the power of the National Government to enter that saloon to see whether or not those in charge were selling intoxicating liquors; to rob the National Government of any power to supervise the selling of intoxicating liquors.

I say that where nonintoxicating liquors are sold—as is now proposed in the beer bill, providing for beer which it is said will be fifteen one-hundreds of 1 per cent of being intoxicating—unless there is a supervising power with full control and authority to prevent the sale of intoxicating liquors, intoxicating liquors will be sold. And even if the power were given, it would be impossible to execute it. Let us not mislead or deceive the men and women who are making the fight against the saloon. If we can not give them real and effective protection, we should not give them a false and ineffective protection.

If there is stricken out of this measure the provision for concurrent power, and if there is taken from the National Government any authority or any power to supervise, there will be turned over to the lawless elements of the States the power to do precisely what it is said they are doing now, running saloons in violation of the fundamental laws of the States.

Can we expect the States of the Union which have now repealed all enforcement laws, which have repealed all laws by which to enforce the Constitution, to give us aid in controlling the places where liquor shall be drunk, after we have given authority to sell it and dispose of it? Certainly not. It would be practically an impossible proposition.

Mr. President, I venture to say here upon the floor of the Senate to-day that, just so surely as the eighteenth amendment shall be repealed and the liquor traffic turned back to the States, the saloon as it was known in the old days will return, and that brutal institution, where criminals consort and crime is bred will be running in full blast in less than 60 days after the eighteenth amendment shall have been repealed. Yea, more than that, it will be running within 30 days after the beer bill, which is now upon the calendar for action, shall have been passed.

Governments have tried to deal with the liquor question for a hundred years—yes; for 200 years—yet they have never been able to devise any scheme by which they could control the lawlessness of the liquor traffic. The liquor traffic itself is lawless, and to say that we can control it by permitting liquor to be sold, but providing that it shall not be drunk at this or that particular place, is imposing an impossibility which no governmental agency could execute. Make the sale legal and give the States power and right to set up a system for sale and distribution; make the drinking where sold illegal but give the Government which makes it illegal no power to execute its will or enforce its laws; that is the most consummate legal riddle yet devised by the genius of man.

Mr. REED. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. REED. What is the pending question?

The VICE PRESIDENT. The pending question is the amendment in the nature of a substitute offered by the Senator from Virginia [Mr. GLASS].

Mr. REED. Mr. President, I move to amend the substitute of the Senator from Virginia, on page 2, line 7, by striking out the word "The" and lines 8, 9, and 10, as follows: "The Congress and the several States, Territories, and

possessions shall have concurrent power to enforce this article by appropriate legislation." I understand that the Senator from Virginia is not disposed to resist this suggestion.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Pennsylvania [Mr. REED] to the amendment of the Senator from Virginia [Mr. GLASS].

Mr. ROBINSON of Arkansas. Mr. President, I shall object to denying the Federal Government the power to execute the mandate of the Constitution, and that is exactly what the amendment of the Senator from Pennsylvania proposes. The substitute of the Senator from Virginia, as now submitted, contemplates that there shall exist in the Federal Government the power to carry out the Constitution. The amendment of the Senator from Pennsylvania denies jurisdiction in the Federal Government to execute the provisions of the Constitution.

The VICE PRESIDENT. The hour of 3 o'clock having arrived, the question is on the amendment of the Senator from Pennsylvania to the substitute of the Senator from Virginia.

Mr. REED. Let us have the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). Transferring my pair with the junior Senator from Nebraska [Mr. HOWELL] to the senior Senator from Louisiana [Mr. BROUSSARD], I am at liberty to vote. I vote "nay."

Mr. WAGNER (when Mr. COPELAND's name was called). I wish to announce that my colleague [Mr. COPELAND] is necessarily absent because of the death of his father.

Mr. FESS (when his name was called). On this question I have a pair with the senior Senator from New York [Mr. COPELAND]. I do not know how he would vote on the pending question. I therefore withhold my vote. Were I privileged to vote, I would vote "nay."

Mr. FRAZIER (when his name was called). On this question I have a pair with the junior Senator from Louisiana [Mr. LONG]. In his absence I withhold my vote. If I were permitted to vote, I would vote "nay."

Mr. THOMAS of Idaho (when his name was called). I have a general pair with the junior Senator from Montana [Mr. WHEELER]. Therefore I withhold my vote. If permitted to vote, I would vote "nay."

The roll call was concluded.

Mr. FESS. I wish to announce that the Senator from Virginia [Mr. SWANSON] has a general pair with the Senator from Illinois [Mr. GLENN].

The result was announced—yeas 14, nays 70, as follows:

YEAS—14

Bingham	La Follette	Reed	Tydings
Brookhart	Metcalf	Reynolds	Walsh, Mass.
Fletcher	Moses	Shortridge	
Hebert	Norris	Trammell	

NAYS—70

Ashurst	Costigan	Johnson	Russell
Austin	Couzens	Kean	Schuyler
Bailey	Cutting	Kendrick	Sheppard
Bankhead	Dale	Keyes	Shipstead
Barbour	Davis	King	Smith
Barkley	Dickinson	Lewis	Smoot
Black	Dill	Logan	Steiwer
Blaine	George	McGill	Stephens
Borah	Glass	McKellar	Thomas, Okla.
Bratton	Goldsborough	McNary	Townsend
Bulkley	Gore	Neely	Vandenberg
Bulow	Grammer	Norbeck	Wagner
Byrnes	Hale	Nye	Walcott
Capper	Harrison	Oddie	Walsh, Mont.
Caraway	Hastings	Patterson	Watson
Clark	Hatfield	Pittman	White
Connally	Hayden	Robinson, Ark.	
Coolidge	Hull	Robinson, Ind.	

NOT VOTING—12

Broussard	Fess	Howell	Swanson
Carey	Frazier	Long	Thomas, Idaho
Copeland	Glenn	Schall	Wheeler

So Mr. REED's amendment to Mr. GLASS's substitute was rejected.

Mr. TYDINGS. Mr. President, I would like to offer an amendment to the substitute of the Senator from Virginia. On page 2, line 10, add a new sentence, as follows:

No national taxes shall be laid for collection against any intoxicating liquor for beverage purposes which shall be prohibited as a commodity in interstate commerce by the laws of Congress.

I ask unanimous consent to have one minute to explain my amendment.

Mr. BORAH. I object.

The VICE PRESIDENT. Objection is made. The question is on the amendment of the Senator from Maryland to the substitute of the Senator from Virginia.

The amendment was rejected.

The VICE PRESIDENT. The question is on the substitute of the Senator from Virginia [Mr. GLASS] for the amendment of the Senator from Wisconsin [Mr. BLAINE].

Mr. WATSON. Let us have the yeas and nays.

The yeas and nays were ordered.

SEVERAL SENATORS. Let the substitute be read.

The VICE PRESIDENT. It will be read.

The CHIEF CLERK. It is proposed to substitute for Senate Joint Resolution 211 the following:

Senate Joint Resolution 202

Joint resolution proposing an amendment to the Constitution of the United States relative to the eighteenth amendment

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"ARTICLE —

"SECTION 1. Article XVIII of the amendments to this Constitution is hereby repealed. The sale of intoxicating liquors within the United States or any territory subject to the jurisdiction thereof for consumption at the place of sale (commonly known as a saloon), and the transportation of intoxicating liquors into any State, Territory, District, or possession of the United States in which the manufacture, sale, and transportation of intoxicating liquors are prohibited by law, are hereby prohibited. The Congress and the several States, Territories, and possessions shall have concurrent power to enforce this article by appropriate legislation.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

The VICE PRESIDENT. The yeas and nays have been ordered, and the Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). Repeating the announcement of my pair and its transfer, I vote "nay."

Mr. WAGNER (when Mr. COPELAND's name was called). I wish to announce that my colleague the senior Senator from New York [Mr. COPELAND] is absent because of the death of his father. If he were present and not paired, he would vote "nay."

Mr. FESS (when his name was called). Announcing my pair as before with the Senator from New York [Mr. COPELAND], I wish to state that were I at liberty to vote I would vote "yea."

Mr. FRAZIER (when his name was called). On this question I have a pair with the junior Senator from Louisiana [Mr. LONG]. Not knowing how he would vote, I withhold my vote.

Mr. NORRIS (when Mr. HOWELL's name was called). The junior Senator from Nebraska [Mr. HOWELL] is absent on official business of the Senate. He is paired with the Senator from New Mexico [Mr. BRATTON]. If my colleague [Mr. HOWELL] were present and voting, on this question he would vote "yea."

Mr. THOMAS of Idaho (when his name was called). Making the same announcement as before, I withhold my vote. If permitted to vote, I would vote "nay."

The roll call was concluded.

Mr. FESS. I wish to announce that the Senator from Virginia [Mr. SWANSON] has a general pair with the Senator from Illinois [Mr. GLENN].

The result was announced—yeas 38, nays 46, as follows:

YEAS—38

Bankhead	Gore	Neely	Shortridge
Brookhart	Grammer	Norbeck	Smoot
Capper	Hale	Norris	Steiwer
Connally	Hastings	Nye	Stephens
Dale	Hatfield	Patterson	Thomas, Okla.
Dickinson	Hayden	Reed	Townsend
Dill	Keyes	Robinson, Ind.	Watson
George	Logan	Russell	White
Glass	McGill	Schuyler	
Goldsborough	McNary	Sheppard	

NAYS—46

Ashurst	Byrnes	Johnson	Robinson, Ark.
Austin	Caraway	Kean	Shipstead
Bailey	Clark	Kendrick	Smith
Barbour	Coolidge	King	Trammell
Barkley	Costigan	La Follette	Tydings
Bingham	Couzens	Lewis	Vandenberg
Black	Cutting	McKellar	Wagner
Blaine	Davis	Metcalf	Walcott
Borah	Fletcher	Moses	Walsh, Mass.
Bratton	Harrison	Oddie	Walsh, Mont.
Bulkley	Hebert	Pittman	
Bulow	Hull	Reynolds	

NOT VOTING—12

Broussard	Fess	Howell	Swanson
Carey	Frazier	Long	Thomas, Idaho.
Copeland	Glenn	Schall	Wheeler

So Mr. GLASS's motion to substitute Senate Joint Resolution 202 for Senate Joint Resolution 211 was rejected.

Mr. REED. Mr. President, I now offer the amendment which I have heretofore sent to the desk and ask that it may be read.

The VICE PRESIDENT. The amendment will be reported.

The CHIEF CLERK. At the end of the joint resolution it is proposed to add a new section, as follows:

SEC. 3. The sale of distilled spirits for consumption at the place of sale shall not be permitted within the United States or any territory subject to the jurisdiction thereof.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania to the amendment reported by the committee, as amended.

Mr. REED. I ask for the yeas and nays.

Mr. WALSH of Montana. Mr. President, I should like to inquire what is the status of the motion which the Senator from Pennsylvania entered to reconsider the action taken yesterday by which section 3 was stricken out?

Mr. REED. If I may answer the Senator's inquiry, I will say that I entered the motion, but it has not yet been called up. However, if my amendment shall not be adopted, I will then make the motion to reconsider the action whereby the section referred to was stricken out.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Pennsylvania [Mr. REED] to the amendment reported by the committee, as amended, on which the yeas and nays are demanded.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). Repeating my announcement respecting my pair with the Senator from Nebraska [Mr. HOWELL] and its transfer to the Senator from Louisiana [Mr. BROUSSARD], I am at liberty to vote. I vote "nay."

Mr. FESS (when his name was called). Repeating my announcement of my pair with the senior Senator from New York [Mr. COPELAND], I withhold my vote. If I were permitted to vote, I should vote "yea."

Mr. FRAZIER (when his name was called). On this amendment I have a pair with the junior Senator from Louisiana [Mr. LONG]. Not knowing how he would vote, I withhold my vote.

Mr. LOGAN (when his name was called). I have a pair with the junior Senator from Pennsylvania [Mr. DAVIS], who has not voted. I do not know how he would vote if present, and, therefore, I withhold my vote. If I were permitted to vote, I should vote "yea."

Mr. THOMAS of Idaho. On this vote I have a pair with the junior Senator from Montana [Mr. WHEELER] and, therefore, withhold my vote. If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. NORRIS. I desire to announce that if my colleague the junior Senator from Nebraska [Mr. HOWELL] were present, on this question he would vote "yea." He is paired as has already been announced by the Senator from New Mexico [Mr. BRATTON].

The result was announced—yeas 37, nays 47, as follows:

YEAS—37

Bankhead	Goldsborough	Norbeck	Smoot
Brookhart	Gore	Norris	Steiwer
Capper	Hale	Nye	Stephens
Caraway	Hastings	Patterson	Thomas, Okla.
Connally	Hayden	Reed	Townsend
Costigan	Keyes	Robinson, Ind.	Watson
Dale	McGill	Russell	White
Dill	McNary	Schuyler	
George	Moses	Sheppard	
Glass	Neely	Shipstead	

NAYS—47

Ashurst	Byrnes	Hull	Robinson, Ark.
Austin	Clark	Johnson	Shortridge
Bailey	Coolidge	Kean	Smith
Barbour	Couzens	Kendrick	Swanson
Barkley	Cutting	King	Trammell
Bingham	Dickinson	La Follette	Tydings
Black	Fletcher	Lewis	Vandenberg
Blaine	Glenn	McKellar	Wagner
Borah	Grammer	Metcalf	Walcott
Bratton	Harrison	Oddie	Walsh, Mass.
Bulkley	Hatfield	Pittman	Walsh, Mont.
Bulow	Hebert	Reynolds	

NOT VOTING—12

Broussard	Davis	Howell	Schall
Carey	Fess	Logan	Thomas, Idaho
Copeland	Frazier	Long	Wheeler

So Mr. REED's amendment to the amendment reported by the committee, as amended, was rejected.

Mr. GORE. Mr. President, I desire to submit an amendment to come in page 3, line 6, after the word "repealed." I hope that Senators will make reference to the joint resolution at that point.

The VICE PRESIDENT. The amendment offered by the Senator from Oklahoma to the amendment reported by the committee, as amended, will be stated.

The CHIEF CLERK. On page 3, at the end of line 6, after the word "repealed," it is proposed to strike out the period and insert a comma and the following:

Except that no State shall authorize or permit the retail sale of distilled spirits for private profit, or by any private agency, corporation, or person.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Oklahoma [Mr. GORE] to the amendment reported by the committee, as amended.

Mr. GORE. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

Mr. REED. Mr. President, the sentiment of the Senate has been sufficiently shown, I think, to make it clear that there would be nothing gained by taking the time to vote on the motion to reconsider the action of the Senate in striking out section 3. Therefore, I will not make the motion.

The VICE PRESIDENT. The motion entered by the Senator from Pennsylvania is withdrawn.

Mr. WATSON. Mr. President, may I renew the motion?

Mr. ROBINSON of Arkansas. Mr. President, I rise to a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. ROBINSON of Arkansas. Under the unanimous-consent agreement under which the Senate is proceeding, a vote on a motion to reconsider is not in order.

The VICE PRESIDENT. The unanimous-consent agreement limits the voting to amendments.

If there be no further amendments, the question is, Shall the joint resolution, as amended, be ordered to be engrossed for a third reading and read the third time?

The joint resolution, as amended, was ordered to be engrossed for a third reading and read the third time.

The VICE PRESIDENT. The question is, Shall the joint resolution pass?

Mr. BARKLEY and other Senators demanded the yeas and nays, and they were ordered.

The Chief Clerk proceeded to call the roll, and Mr. ASHURST voted in the affirmative.

Mr. MOSES. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MOSES. May we not have the joint resolution read in the form in which it is now to be finally voted upon?

The VICE PRESIDENT. Let it be read.

Mr. ROBINSON of Arkansas. Mr. President, that can be done only by unanimous consent. I do not object if the Senator wishes to make the request but the rule provides that the roll call may not be interrupted.

The VICE PRESIDENT. Is there objection to the reading of the joint resolution?

Mr. ROBINSON of Arkansas. I do not object.

Mr. COUZENS. I object.

The VICE PRESIDENT. Objection being made, the clerk will continue the calling of the roll.

The Chief Clerk resumed the calling of the roll.

Mr. WAGNER (when Mr. COPELAND's name was called). I desire to announce that my colleague [Mr. COPELAND] is absent because of the death of his father. If he were present, he would vote "yea."

Mr. FESS (when his name was called). On this final vote I am paired with the Senator from New York [Mr. COPELAND] and the Senator from Louisiana [Mr. BROUSSARD]. Were these two Senators present, I understand that they would vote "yea." Were I at liberty to vote, I should vote "nay."

Mr. GEORGE (when his name was called). On this final vote the junior Senator from Montana [Mr. WHEELER] and I are paired with the junior Senator from Idaho [Mr. THOMAS]. If the Senator from Montana were present, he would vote "yea." If I were permitted to vote, I would vote "yea," and if the junior Senator from Idaho were at liberty to vote he would vote "nay."

Mr. NORRIS (when Mr. HOWELL's name was called). As previously stated, my colleague [Mr. HOWELL] is absent on official business of the Senate. He is paired on this question with the Senator from Wyoming [Mr. CAREY] and the Senator from Louisiana [Mr. LONG]. If my colleague were present and at liberty to vote on this question, he would vote "nay," and I understand that the Senator from Wyoming and the Senator from Louisiana would vote "yea."

Mr. THOMAS of Idaho (when his name was called). On this question I have a pair with the junior Senator from Montana [Mr. WHEELER] and the Senator from Georgia [Mr. GEORGE]. I am informed that if they were at liberty to vote they would vote "yea," and if I were at liberty to vote I should vote "nay."

Mr. WALSH of Montana (when Mr. WHEELER's name was called). My colleague [Mr. WHEELER] is detained on account of illness. His pair on this question has already been announced.

The roll call was concluded.

Mr. SHIPSTEAD. My colleague [Mr. SCHALL] is unavoidably absent from the Senate. If present, he would vote "nay."

Mr. FESS. I desire to announce that the Senator from Wyoming [Mr. CAREY] is absent on the business of the Senate.

Mr. SHEPPARD. The Senators from Louisiana [Mr. BROUSSARD and Mr. LONG] are detained on official business.

The roll call resulted—yeas 63, nays 23, as follows:

YEAS—63

Ashurst	Bulow	Glenn	Keyes
Austin	Byrnes	Grammer	King
Bailey	Clark	Hale	La Follette
Bankhead	Connally	Harrison	Lewis
Barbour	Coolidge	Hastings	McKellar
Barkley	Couzens	Hayden	McNary
Bingham	Cutting	Hebert	Metcalf
Black	Davis	Hull	Moses
Blaine	Dill	Johnson	Neely
Bratton	Fletcher	Kean	Nye
Bulkley	Frazier	Kendrick	Oddie
Patterson	Russell	Trammell	Walsh, Mass.
Pittman	Shipstead	Tydings	Walsh, Mont.
Reed	Shortridge	Vandenberg	Watson
Reynolds	Smith	Wagner	White
Robinson, Ark.	Swanson	Walcott	

NAYS—23

Borah	Dickinson	McGill	Smoot
Brookhart	Glass	Norbeck	Steiwer
Capper	Goldsborough	Norris	Stephens
Caraway	Gore	Robinson, Ind.	Thomas, Okla.
Costigan	Hatfield	Schuyler	Townsend
Dale	Logan	Sheppard	

NOT VOTING—10

Broussard	Fess	Long	Thomas, Idaho
Carey	George	Schall	Wheeler
Copeland	Howell		

The VICE PRESIDENT. On this question the yeas are 63, the nays are 23. More than two-thirds having voted in the affirmative, the joint resolution is passed.

Senate Joint Resolution 211, as passed, is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"ARTICLE —

"SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

"SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

Mr. SHIPSTEAD. Mr. President, I ask to have printed in the RECORD a telegram from my colleague [Mr. SCHALL] to his secretary relative to his position on this question.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

MINNEAPOLIS, MINN., *February 16, 1933.*

ORELL LEEN,
112 Senate Office Building:
Am opposed if section 3 is stricken. Pair me accordingly.
Senator THOMAS D. SCHALL.

Mr. WALSH of Massachusetts subsequently said: Mr. President, in connection with the vote taken on the joint resolution proposing to repeal the eighteenth amendment I desire now to make a brief statement, as I did not have the opportunity to get the floor before the vote was taken.

I wanted to make the same appeal made by the Senator from Texas [Mr. SHEPPARD] at the close of the debate some years ago, when the question of submitting the eighteenth amendment was under consideration. I think the history of the struggle for the adoption and repeal of national prohibition would not be complete without the brief statement of the Senator from Texas being in the RECORD. It seemed to me Senators could well take the position so well expressed by the Senator from Texas, the author of the eighteenth amendment. Practically all Senators can vote for the submission of this amendment for the reasons that were presented when those in favor of national prohibition were asking Congress to allow the people to vote their will.

I am not, of course, by inviting attention to the remarks made by the Senator from Texas, intending in any way any criticism of him; in fact, it is complimentary, for it shows what a proper concept he had of the duty of Senators in voting to submit to the people highly controversial constitutional questions. As both political parties favor submission, so should all Senators. In a speech in the Senate on July 30, 1917, the Senator from Texas said:

> The Members of Congress who will not vote for the submission of a constitutional amendment to the decision of the States, where it belongs, unless he personally believes it should become a part of the Constitution, usurps the function of the States, arrogates to himself and the Federal Government a prerogative that belongs to the States, and violates the very essence of their sovereignty. * * *
>
> Were I opposed on principle to nation-wide prohibition, I would vote to submit the amendment to the States in order that they

might exercise one of their fundamental rights. An issue is thus presented by the nation-wide amendment entirely independent of prohibition.

Mr. SHEPPARD entered the Chamber.

Mr. WALSH of Massachusetts. I note, Mr. President, that the Senator from Texas has come into the Chamber; he was not present when I began my remarks. I will say to him that I have read into the RECORD the statement which he made during the debate some years ago on the question of submitting the eighteenth amendment to the States, and I have done so not at all by way of criticism of him but because I think the statement he then made enunciated a sound principle.

Mr. SHEPPARD. Mr. President, I thank the Senator for advising me as to what he is doing, and I recognize that he is acting entirely within his rights. I referred to the statement to which he alluded in my speech on January 16 last, the thirteenth anniversary of prohibition, and said that I did not believe that statement a precedent for action under the present circumstances. I do not believe that prohibition has had a fair trial and I do not think it should be submitted at this time. It would be unfair both to prohibition and to the people to do so.

RELIEF OF DESTITUTION

Mr. LA FOLLETTE. Mr. President, I move that the Senate proceed to the consideration of Senate bill 5125, to provide for cooperation by the Federal Government with the several States in relieving the hardship and suffering caused by unemployment, and for other purposes.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BARKLEY. On yesterday I introduced Senate Resolution 360, seeking to limit debate on all measures for the remainder of this session, and it went over until to-day. The inquiry is whether the adoption of the motion of the Senator from Wisconsin would in any way prejudice my rights under the resolution now on the Vice President's desk.

The VICE PRESIDENT. It would not.

Mr. LA FOLLETTE. Mr. President, if I understand the parliamentary situation of the resolution introduced by the Senator from Kentucky, it is that it went over under the rule, and it would not, therefore, be handed down in the regular procedure until an adjournment of the Senate had intervened. It would then be handed down at the conclusion of the routine morning business with other resolutions coming over similarly under the rule.

Mr. BARKLEY. I do not understand that to be the parliamentary situation. Under that state of affairs it never would be possible to bring up this resolution as long as the Senate recessed from day to day.

Mr. LA FOLLETTE. That is correct.

Mr. BARKLEY. Under the practice that has obtained here, the same rule applies to a resolution of this sort that applies to a motion to suspend the rules; and we have been taking up these motions under the recesses of the Senate rather than under adjournments.

Mr. ROBINSON of Arkansas. Mr. President, if the Senator will yield, the parliamentary situation is perfectly clear to me, if I may say so to the Senator from Kentucky. He is at liberty, when it in order to do so, to move to proceed to the consideration of his resolution. It has no preferential status at this time.

The Senator from Wisconsin [Mr. LA FOLLETTE] has made a motion to proceed to the consideration of the so-called destitution relief bill. That is the pending question. It would not be in order now to move to take up the resolution of the Senator from Kentucky. I am in sympathy with the purpose of the resolution, however.

Mr. BARKLEY. I have no desire to interfere with the motion of the Senator from Wisconsin; but if a resolution of this sort goes over for a day, I do not understand that that necessarily means a legislative day.

Mr. MOSES. Oh, yes, Mr. President.

Mr. BARKLEY. It has not been so held.

Mr. ROBINSON of Arkansas. Oh, yes. That is the object in having legislative days.

Mr. MOSES. Mr. President, I have dealt with that subject probably as often as any person on the floor here; and I assert without qualification that the Senator's resolution would be a resolution coming over from the preceding day, and it would be in order only at the end of the routine morning business.

Mr. BARKLEY. I will say to the Chair that there are numerous decisions to the contrary. They may not have been rendered while the Senator from New Hampshire was presiding, but there are numerous decisions to the contrary; and I think a motion of this sort stands on the same footing as a motion to suspend the rules, which goes over for a day under the rule. No longer ago than last week, however, we took up on the following calendar day, without an adjournment, the motion of the Senator from California [Mr. JOHNSON] to suspend the rules.

I am not making any point of it now. I am not going to press my motion at this time; but I desire a ruling of the Chair as to whether I would be prejudiced in any way by the adoption of the motion of the Senator from Wisconsin.

The VICE PRESIDENT. The Senator's resolution would not be prejudiced by adopting the motion.

Mr. LA FOLLETTE. Mr. President, I merely wish to make a brief statement to the Senators who are present.

If this motion prevails, I shall then be glad to yield for the purpose of temporarily, by unanimous consent, laying aside this measure in order to accommodate the personal situation of the senior Senator from Maine [Mr. HALE]. He has a very serious illness in his family. He is responsible for one of the appropriation bills now on the calendar. The Senator desires to leave the city at 6 o'clock. Therefore I wanted to make that statement, and wanted to indicate that I shall cooperate with him in every way to meet the distressing personal situation which confronts him.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 5125) to provide for cooperation by the Federal Government with the several States in relieving the hardship and suffering caused by unemployment, and for other purposes, which had been reported from the Committee on Manufactures with amendments.

STATE, JUSTICE, ETC., APPROPRIATIONS

Mr. HALE. Mr. President, with the consent of the Senator from Wisconsin, I ask unanimous consent that the unfinished business be temporarily laid aside for the purpose of taking up the State, Justice, and so forth, appropriation bill.

The PRESIDING OFFICER (Mr. BINGHAM in the chair). Is there objection?

Mr. BORAH. Mr. President, I understand the situation with reference to the Senator from Maine. The Senator desires to leave the city at 6 o'clock. That means that he wants to dispose of this appropriation bill by 6 o'clock; does it?

Mr. HALE. Mr. President, I can take a train that leaves at 7.30, if necessary.

Mr. BORAH. Mr. President, is it proposed to bring up all the questions with reference to appropriations on enforcement matters?

Mr. HALE. I do not know, Mr. President. There has been a day's talk on that subject, and I do not know whether there will be a debate on these matters or not.

Mr. KING. Mr. President, in which particular part of the bill is the Senator from Maine interested?

Mr. HALE. I am in charge of the bill, and would like to get it out of the way, if I can, because I shall have to be away, probably, for several days.

Mr. KING. I understood from the Senator from Wisconsin that there was one branch in which the Senator from Maine was particularly interested.

Mr. HALE. No; I am not interested especially in any part of the bill.

Mr. McKELLAR. Mr. President, to what provision did the Senator from Idaho refer?

Mr. BORAH. I had understood that there were several provisions of the bill over which there would be controversy.

I do not want to interfere with the Senator from Maine going away, under the circumstances, but if these questions are raised it will be impossible to get the bill through by 6 o'clock.

Mr. HALE. Mr. President, I would like to have the Senate go ahead and see how far we can go with the bill.

Mr. NORRIS. Mr. President, I have no objection to going ahead; but it seems to me that, while we all sympathize with the Senator from Maine, and would like to excuse him as soon as possible, it should not be expected that we can complete the consideration of this bill, which covers four important departments of the Government, in such a short time. I do not think we ought to be expected to pass the appropriations for these four departments in two hours. I have no objection to going on with the bill if the Senator from Maine desires that. Some other member of the committee could probably take charge of it after he left. But four departments of the Government are involved in the bill, and really quite a number of Senators, situated as I am, having followed the discussion which has just ended, ought to have a little time, which we could get this evening or to-morrow forenoon, to look up a large number of matters which are involved in these appropriations. I do not want to consent to the request with the understanding that this appropriation bill is to be passed in two hours' time.

Mr. McKELLAR. Mr. President, I will say to the Senator from Nebraska that I think there will be less controversy over the provisions of this particular bill than has occurred over any bill we have had before us for some time. But we can never tell, of course, what the Senate may do.

Mr. NORRIS. Heretofore the appropriation bills for these departments have contained items which should have been considered fully. I have not had time to look into the provisions of this particular bill, and probably will not participate to a great extent in the debate, but I did not want the impression to go abroad that we are to pass an appropriation bill providing the appropriations for four great departments of the Government in two hours' time. We ought to have two days instead of two hours.

Mr. SMITH. Mr. President, I would like to ask the Senator from Tennessee [Mr. McKELLAR], who is familiar with the appropriation bills, whether in the bill just called to our attention, including the appropriations for four of the departments, he has discovered points as to which there is likely to be controversy.

Mr. McKELLAR. I will say to the Senator that it is likely that there will be fewer provisions in the pending bill controverted than have been found in any of the bills we have heretofore considered. The House cut down the appropriations very considerably; and, as I see it, there are not many controversial questions left in the bill, and I think we could get through with it in a very short time. Of course, we can never tell what the Senate will debate.

Mr. HALE. Mr. President, as far as I am concerned I do not want the Senate to take any action on account of personal reasons of my own. I had hoped there would be very little debate on the bill and that it might be possible to get it through to-day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the bill (H. R. 14363) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor for the fiscal year ending June 30, 1934, and for other purposes.

Mr. HALE. I ask that the formal reading of the bill be dispensed with, and that the Senate proceed to the consideration of amendments to the bill, committee amendments to be first considered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WAGNER. Mr. President, I send to the desk two amendments which I intend to propose to the bill, which I ask to have printed.

The PRESIDING OFFICER. The amendments will be printed and lie on the table.

The clerk will state the first amendment of the committee.

The first amendment of the Committee on Appropriations was, under the heading "Title I—Department of State, office of the Secretary of State," on page 2, line 4, after the name "Under Secretary of State," to insert "$10,000," so as to read:

Salaries: For Secretary of State, Under Secretary of State, $10,000; and other personal services in the District of Columbia, including temporary employees, and not to exceed $6,500 for employees engaged on piecework at rates to be fixed by the Secretary of State, $1,683,449.

The amendment was agreed to.

The next amendment was, under the subhead "Contingent expenses, Department of State," on page 3, line 25, after the word "department)," to insert "automobile mail wagons, including storage, repair, and exchange of same," so as to read:

For contingent and miscellaneous expenses, including stationery, furniture, fixtures; typewriters, adding machines, and other labor-saving devices, including their exchange, not exceeding $10,000; repairs and material for repairs; purchase and exchange of books, maps, and periodicals, domestic and foreign, and when authorized by the Secretary of State for dues for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members, not exceeding $15,880; newspapers not exceeding $1,500; maintenance, repair, and storage of motor-propelled vehicles, to be used only for official purposes (one for the Secretary of State and two for dispatching mail, and one motor cycle for the general use of the department); automobile mail wagons, including storage, repair, and exchange of same; street-car fare not exceeding $150; traveling expenses; refund of fees erroneously charged and paid for the issue of passports to persons who are exempted from the payment of such fee by section 1 of the act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921; approved June 4, 1920 (U. S. C., Supp. V, title 22, sec. 214a); the examination of estimates of appropriations in the field; and other miscellaneous items not included in the foregoing; $77,000.

The amendment was agreed to.

The next amendment was, under the subhead "Collecting and editing official papers of Territories of the United States," on page 5, line 5, after the figures "$9,158," to insert a comma and "together with the unexpended balances of the appropriations made available for this purpose in the State Department appropriation act for the fiscal year 1933," so as to read:

For the expenses of collecting, editing, copying, and arranging for publication the official papers of the Territories of the United States, including personal services in the District of Columbia and elsewhere, printing and binding, and contingent and traveling expenses, as provided by the act approved February 28, 1929 (45 Stat., p. 1412), $9,158, together with the unexpended balances of the appropriations made available for this purpose in the State Department appropriation act for the fiscal year 1933.

The amendment was agreed to.

The next amendment was, under the subhead "Contributions, quotas, etc." on page 13, line 16, before the word "International" to strike out "and," and in line 17, after the figures "$250," to strike out "in all, $575,431" and insert:

International Prison Commission, quota, $4,043; expenses, $957; in all, $5,000; International Commission on Annual Tables of Constants, $500; International Council of Scientific Unions (International Council of Scientific Unions, $46.32; International Astronomical Union, $781.65; International Union of Chemistry, $675; International Union of Geodesy and Geophysics, $3,088; International Union of Mathematics, $38.60; International Scientific Radio Union, $154.40; International Union of Physics, $64; International Geographical Union, $194.80), $5,042.77; International Road Congress, $600; and Convention Relating to Liquor Traffic in Africa, $55; in all, $586,628.77.

So as to read:

For payment of the annual contributions, quotas, and/or expenses, including loss by exchange, in discharge of the obligations of the United States in connection with international commissions, congresses, bureaus, and other objects, as follows: Cape Spartel and Tangier Light, Coast of Morocco, $825; International Bureau of Weights and Measures, $4,342.50; International Bureau for Publication of Customs Tariffs, $1,400; Pan American Union, quota, $167,576.40, printing and binding, $20,000; in all $187,576.40; International Bureau of Permanent Court of Arbitration, $2,000; Bureau of Interparliamentary Union for Promotion of International Arbitration, $7,500; International Institute of Agriculture at Rome, Italy, $5,400; Pan American Sanitary Bureau, $30,024.11; International Office of Public Health, $3,015.79; International

Radiotelegraphic Convention, $7,527; Government of Panama, $250,000; International Hydrographic Bureau, $5,790; Foreign Hospital at Capetown, $50; International Trade-Mark Registration Bureau, $14,330.20; International Bureau for Protection of Industrial Property, $1,350; Gorgas Memorial Laboratory, $50,000, of which $5,000 shall be immediately available; American International Institute for the Protection of Childhood, $2,000; International Statistical Bureau at The Hague, $2,000; International Map of the World on the Millionth Scale, $50; International Technical Committee of Aerial Legal Experts, $250; International Prison Commission, quota, $4,043; expenses, $957; in all, $5,000; International Commission on Annual Tables of Constants, $500; International Council of Scientific Unions (International Council of Scientific Unions, $46.32; International Astronomical Union, $781.65; International Union of Chemistry, $675; International Union of Geodesy and Geophysics, $3,088; International Union of Mathematics, $38.60; International Scientific Radio Union, $154.40; International Union of Physics, $64; International Geographical Union, $194.80), $5,042.77; International Road Congress, $600; and Convention Relating to Liquor Traffic in Africa, $55; in all, $586,628.77.

The amendment was agreed to.

The next amendment was, under the subhead "International Boundary Commission, United States and Mexico," on page 14, line 25, after the figures "$120,000," to insert a colon and the following proviso:

Provided, That the unexpended balance in the appropriation for the International Boundary Commission, United States and Mexico, American section, contained in the act making appropriations for the Department of State for the fiscal year 1933 is continued available until June 30, 1934.

Mr. KING. Mr. President, on a number of occasions I have challenged attention to continual appropriations, or another large appropriation, for the settlement of the international boundary between the United States and Mexico. I want to ask the Senator whether any funds heretofore appropriated have not been expended, and whether or not in this bill there is any additional appropriation for the next fiscal year?

Mr. HALE. Mr. President, these appropriations are for the next fiscal year. They are for certain congresses and unions for which estimates came in. The House cut out five which are mentioned. Some of them have been authorized by act of Congress, and one by treaty. The appropriations are simply for our quota, under the agreements, to these congresses and unions. They are appropriations such as we have made in the past right along.

Mr. KING. Mr. President, I did not make myself clear. I am not inquiring concerning the appropriation for the Pan American Union, or for the expenses of that organization.

Mr. HALE. The Senator is referring to the amendment, is he not?

Mr. KING. I am referring to the amendment dealing exclusively with the International Boundary Commission.

Mr. HALE. That comes later on.

Mr. KING. It is on pages 14 and 15.

Mr. HALE. The Senator is referring to the amendment on page 15?

Mr. KING. Beginning at the bottom of page 14, and extending over on page 15.

Mr. HALE. I will say that until last July there were two commissions, the International Boundary Commission and the International Water Commission. At that time the two were combined into one, and the appropriations to take care of that one commission were very materially cut down. When the two were combined there was an unexpended balance of about $158,000 from the appropriations for the International Water Commission, and out of that $158,000, $70,000 were reappropriated for the International Boundary Commission. Then a further appropriation of $70,000 was made for the International Boundary Commission itself, making in all $140,000. About $88,000 were put back into the Treasury from the appropriation for the International Water Commission. But the expense of running the Boundary Commission is now very much less than the expense of running the two commissions separately.

Mr. KING. The Senator knows the bill has just been laid on our desks within the past five minutes, and very few have had a chance to see it.

Mr. HALE. The bill has been before the Senate for over a week.

Mr. KING. I merely state that only within the past five minutes have copies of the bill been laid upon our desks. If it has been before the Senate, the attention of Senators has not been called to it.

Mr. HALE. That may well be, but the bill was reported some time ago.

Mr. KING. I repeat the question, Is there any appropriation in this bill for the International Boundary Commission, other than a reappropriation?

Mr. HALE. There is an appropriation of $120,000, plus the reappropriation of the unexpended balances, amounting now to about $10,000, making a total of $130,000 for the commission, which is $10,000 less than was appropriated for the current year, and very much less than the appropriation in the past for that and the other commission, the International Water Commission.

Mr. KING. Mr. President, I know it would be of no avail to protest against this appropriation, or any part of it, but I do protest, because in my judgment, from the information which has been brought to our attention from time to time, the appropriation of $120,000 would be excessive. Of course, I can not object to reappropriations, although that money ought to have been covered into the Treasury, and should not be added to the Budget for expenditure in the coming year.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, under the subhead "Waterways treaty, United States and Great Britain: International Joint Commission, United States and Great Britain," on page 17, line 13, after the word "vehicles," to strike out "$58,000" and insert "$77,000," so as to read:

For an additional amount for necessary special or technical investigations in connection with matters which fall within the scope of the jurisdiction of the International Joint Commission, including personal services in the District of Columbia or elsewhere, traveling expenses, procurement of technical and scientific equipment, and the purchase, exchange, hire, maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles, $77,000, to be disbursed under the direction of the Secretary of State, who is authorized to transfer to any department or independent establishment of the Government, with the consent of the head thereof, any part of this amount for direct expenditure by such department or establishment for the purposes of this appropriation.

Mr. KING. Mr. President, what is the reason for an increase over the House provision?

Mr. HALE. Mr. President, the increase on page 17 has to do with the Trail smelter fumes investigation in the State of Washington.

Mr. DILL. Mr. President, will the Senator yield?

Mr. HALE. I will yield, but I will be very glad to explain the amendment briefly.

Mr. DILL. Very well.

Mr. HALE. The situation in Washington is as follows: There is a very large smelter just across the line from the State of Washington, and the fumes from that smelter come across into the State of Washington, and do a great deal of damage to the property of people who live in that vicinity.

Two years ago the International Joint Commission went into this question and made a decision on it, which was submitted to our State Department and to Canada. There was objection to their decision, which provided for a certain amount of damages, and provided for the elimination of the fumes. Each year these fumes, which are still coming down, cause additional damage. So every year we have had to appropriate a certain amount of money for investigating the cause of the fumes and the damage done thereby.

I took the matter up with the State Department recently, and they tell me they have now decided to go ahead under the decision of the International Joint Commission and make the agreement suggested by that commission between the United States and Canada. It will take several years to take care of this continuing fumes situation.

Mr. DILL. Mr. President, I want to say, in addition to what the Senator from Maine has said, that unless this appropriation is continued that we have been having for several years we will have no method of securing the proof that is necessary to present in order to secure the damages to which we feel we are entitled through the International Joint Commission. We are only getting one-half of what we have been previously having for this purpose.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 18, after line 6, to insert:

INTERNATIONAL RADIOTELEGRAPH CONFERENCE, MADRID, SPAIN

The unexpended balance of the appropriation "International Radiotelegraph Conference, Madrid, Spain, 1933," shall be available for any North American radio conference or conferences, growing out of the Madrid conference, to be held in Mexico City or elsewhere, including personal services without reference to the classification act of 1923, as amended, in the District of Columbia and elsewhere; stenographic reporting and translating services by contract, if deemed necessary, without regard to the provisions of section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5); rent; traveling expenses; purchase of necessary books and documents; official cards; newspapers and periodicals; printing and binding; entertainment; and such other expenses as may be authorized by the Secretary of State, to be immediately available and to remain available until June 30, 1934.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Prohibition," on page 27, line 4, after the word "liquors," to insert "which are consumed by the investigator or anyone with him," so as to make the additional proviso, in part, read:

Provided further, That no funds hereby appropriated shall be used for the purchase of intoxicating liquors which are consumed by the investigator or anyone with him.

Mr. ASHURST. Mr. President, it would be unpardonable for me to consume any considerable time now. I shall be brief if not interrupted. The provision I shall discuss is, however, of such transcendent importance that I would be justified, nevertheless, in consuming more time than I intend to take.

We have just submitted, so far as this body may, a proposal to the States to repeal the eighteenth amendment. I doubt not, although I can not look into the hearts of men, that some of the votes in favor of the submission of that amendment were motivated by the fact that minions of the Federal Government, in pursuance of what they may have thought was the enforcement of law, have invaded the constitutional rights and immunities of citizens. The House of Representatives incorporated in this bill a provision that no moneys appropriated herein should be used for wire-tapping devices or for the purchase of evidence or to entrap citizens or to induce citizens to commit crime.

Mr. President, I am supposed to have familiarity with the vast resources of the English language, but it would be impossible for me, or for any other Senator, to use more vigorous or more appropriate language in denouncing entrapment and the purchase of evidence than was used by the Supreme Court of the United States in a decision which it rendered on December 19, 1932, in the case of Sorrells, petitioner, against the United States.

The defendant—petitioner before the Supreme Court—was indicted on two counts, one for possessing and one for selling half a gallon of whisky. The substance of the testimony at the trial of the defendant was that the defendant, an ex-service man, who had lived a good life, and who never used liquor, was visited by another man who pretended that he had belonged to the defendant's regiment and appealing to comradeship induced the defendant to procure for him—the stranger—some liquor. Whereupon the defendant, yielding to such blandishment, procured some liquor for the imposter who was thus endeavoring to entrap the defendant. The ex-soldier was tried and convicted. The Supreme Court of the United States set aside that conviction. The court swept away the cobwebs and technicalities and said such a cruel, inhuman, unconstitutional entrapment should not stand.

So, Mr. President, the provisions of this bill inserted by the House, and which have been weakened, I regret to say, by the Senate Committee on Appropriations, denounced wire tapping, denounced the use of funds which would authorize a Government officer to commit a crime or to use any of the Government's funds to induce another person to commit a crime or to purchase evidence.

In the interest of time I ask to include in the RECORD at this juncture a copy of the decision of the Supreme Court of the United States which, as I said, was rendered December 19, 1932.

The PRESIDING OFFICER. Without objection, it is so ordered.

The decision is as follows:

SUPREME COURT OF THE UNITED STATES

No. 177—October term, 1932

C. V. SORRELLS, PETITIONER, *v.* THE UNITED STATES OF AMERICA, ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT

(December 19, 1932)

Mr. Chief Justice Hughes delivered the opinion of the court:

Defendant was indicted on two counts: (1) For possession and (2) for selling, on July 13, 1930, one-half gallon of whisky in violation of the national prohibition act. He pleaded not guilty. Upon the trial he relied upon the defense of entrapment. The court refused to sustain the defense, denying a motion to direct a verdict in favor of defendant, and also refusing to submit the issue of entrapment to the jury. The court ruled that "as a matter of law" there was no entrapment. Verdict of guilty followed, motions in arrest and to set aside the verdict as contrary to the law and the evidence were denied, and defendant was sentenced to imprisonment for 18 months. The Circuit Court of Appeals affirmed the judgment (57 F. (2d) 973), and this court granted a writ of certiorari limited to the question whether the evidence was sufficient to go to the jury upon the issue of entrapment.

The Government, while supporting the conclusion of the court below, also urges that the defense, if available, should have been pleaded in bar to further proceedings under the indictment and could not be raised under the plea of not guilty. This question of pleading appropriately awaits the consideration of the nature and grounds of the defense.

The substance of the testimony at the trial as to entrapment was as follows: For the Government, one Martin, a prohibition agent, testified that, having resided for a time in Haywood County, N. C., where he posed as a tourist, he visited defendant's home near Canton, on Sunday, July 13, 1930, accompanied by three residents of the county who knew the defendant well. He was introduced as a resident of Charlotte who was stopping for a time at Clyde. The witness ascertained that defendant was a veteran of the World War and a former member of the Thirtieth Division, American Expeditionary Forces. Witness informed defendant that he was also an ex-service man and a former member of the same division, which was true. Witness asked defendant if he could get the witness some liquor, and defendant stated that he did not have any. Later there was a second request without result. One of those present, one Jones, was also an ex-service man and a former member of the Thirtieth Division, and the conversation turned to the war experiences of the three. After this, witness asked defendant for a third time to get him some liquor, whereupon defendant left his home and after a few minutes came back with a half gallon of liquor for which the witness paid defendant $5. Martin also testified that he was "the first and only person among those present at the time who said anything about securing some liquor," and that his purpose was to prosecute the defendant for procuring and selling it. The Government rested its case on Martin's testimony.

Defendant called as witnesses the three persons who had accompanied the prohibition agent. In substance, they corroborated the latter's story but with some additions. Jones, a railroad employee, testified that he had introduced the agent to the defendant "as a furniture dealer of Charlotte," because the agent had so represented himself; that witness told defendant that the agent was "an old Thirtieth Division man," and the agent thereupon said to defendant that he "would like to get a half gallon of whisky to take back to Charlotte to a friend of his that was in the furniture business with him, and that defendant replied that he "did not fool with whisky"; that the agent and his companions were at defendant's home "for probably an hour or an hour and a half and that during such time the agent asked the defendant three or four or probably five times to get him, the agent, some liquor." Defendant said "he would go and see if he could get a half gallon of liquor," and he returned with it after an absence of "between 20 and 30 minutes." Jones added that at that time he had never heard of defendant being in the liquor business, that he and the defendant were "two old buddies," and that he believed "one former war buddy would get liquor for another."

Another witness, the timekeeper and assistant paymaster of the Champion Fibre Co. at Canton, testified that defendant was an employee of that company and had been "on his job continuously without missing a pay day since March, 1924." Witness identified the time sheet showing this employment. This witness and three others, who were neighbors of the defendant and had known him for many years, testified to his good character.

To rebut this testimony the Government called three witnesses who testified that the defendant had the general reputation of a rum runner. There was no evidence that the defendant had ever possessed or sold any intoxicating liquor prior to the transaction in question.

It is clear that the evidence was sufficient to warrant a finding that the act for which defendant was prosecuted was instigated by the prohibition agent; that it was the creature of his purpose; that defendant had no previous disposition to commit it, but was an industrious, law-abiding citizen; and that the agent lured defendant, otherwise innocent, to its commission by repeated and persistent solicitation in which he succeeded by taking advantage of the sentiment aroused by reminiscences of their experiences as companions in arms in the World War. Such a gross abuse of authority given for the purpose of detecting and punishing crime, and not for the making of criminals, deserves the severest condemnation, but the question whether it precludes prosecution or affords a ground of defense; and if so, upon what theory, has given rise to conflicting opinions.

It is well settled that the fact that officers or employees of the Government merely afford opportunities or facilities for the commission of the offense does not defeat the prosecution. Artifice and strategem may be employed to catch those engaged in criminal enterprises. (Grimm *v.* United States, 156 U. S. 604, 610; Goode *v.* United States, 159 U. S. 663, 669; Rosen *v.* United States, 161 U. S. 29, 42; Andrews *v.* United States, 162 U. S. 420, 423; Price *v.* United States, 165 U. S. 311, 315; Bates *v.* United States, 10 Fed. 92, 94, note, p. 97; United States *v.* Reisenweber, 288 Fed. 520, 526; Aultman *v.* United States, 289 Fed. 251.[1]) The appropriate object of this permitted activity, frequently essential to the enforcement of the law, is to reveal the criminal design; to expose the illicit traffic, the prohibited publication, the fraudulent use of the mails, the illegal conspiracy, or other offenses, and thus to disclose the would-be violators of the law. A different question is presented when the criminal design originates with the officials of the Government, and they implant in the mind of an innocent person the disposition to commit the alleged offense and induce its commission in order that they may prosecute.

The circuit court of appeals reached the conclusion that the defense of entrapment can be maintained only where, as a result of inducement, the accused is placed in the attitude of having committed a crime which he did not intend to commit or where by reason of the consent implied in the inducement no crime has in fact been committed. (57 F. (2d), p. 974.) As illustrating the first class, reference is made to the case of a sale of liquor to an Indian who was disguised so as to mislead the accused as to his identity. (United States *v.* Healy, 202 Fed. 349; Voves *v.* United States, 249 Fed. 191.) In the second class are found cases such as those of larceny or rape, where want of consent is an element of the crime. (Regina *v.* Fletcher, 8 Cox C. C. 131; Rex *v.* McDaniel, Fost. 121, 127, 128; Connor *v.* People, 18 Colo. 373; Williams *v.* Georgia, 55 Ga. 391; United States *v.* Whittier, 5 Dill. 35; State *v.* Adams, 115 N. C. 775.) There may also be physical conditions which are essential to the offense and which do not exist in the case of a trap, as, for example, in the case of a prosecution for burglary, where it appears that by reason of the trap there is no breaking.[2] (Rex. *v.* Egginton, 2 Leach, C. C. 913; Regina *v.* Johnson, Car. and Mar. 218; Saunders *v.* People, 38 Mich. 218; People *v.* McCord, 76 Mich. 200; Allen *v.* State, 40 Ala. 334; Love *v.* People, 160 Ill. 501.) But these decisions applying accepted principles to particular offenses, do not reach, much less determine, the present question. Neither in reasoning nor in effect do they prescribe limits for the doctrine of entrapment.

While this court has not spoken on the precise question (see Casey *v.* United States, 276 U. S. 413, 419, 423[3]), the weight of authority in the lower Federal courts is decidedly in favor of the view that in such case as the one before us the defense of entrapment is available. The Government concedes that its contention, in supporting the ruling of the circuit court of appeals, is opposed by decisions in all the other circuits except the tenth circuit, and no decision in that circuit suggesting a different view has been brought to our attention. (See Capuano *v.* United States (C. C. A. 1st, 9 F. (2d) 41, 42; United States *v.* Lynch (S. D. N. Y., Hough, J.), 256 Fed. 983, 984; Lucadamo *v.* United States (C. C. A. 2d), 280 Fed. 653, 657, 658; Zucker *v.* United States (C. C. A. 3d), 288 Fed. 12, 15; Gargano *v.* United States (C. C. A. 5th), 24 F. (2d) 625, 626; Cermak *v.* United States (C. C. A. 6th), 4 F. (2d) 99; O'Brien *v.* United States (C. C. A. 7th), 51 Fed. 674, 679, 680; Butts *v.* United States (C. C. A. 8th), 273 Fed. 35, 38; Woo Wai *v.* United States (C. C. A. 9th), 223 Fed. 412.) And the Circuit Court of Appeals of the Fourth Circuit, in the instant case, was able to reach its conclusion only by declining to follow the rule which it had laid down in its earlier decision in Newman *v.* United States (299 Fed. 128, 131[4]). It should be added that in many cases in which the evidence has been found insufficient to support the defense of entrapment the availability of that defense on a showing of such facts as are present here, has been recognized.[5]

The Federal courts have generally approved the statement of Circuit Judge Sanborn in the leading case of Butts *v.* United States, supra, as follows: "The first duties of the officers of the law are to prevent, not to punish crime. It is not their duty to incite to and create crime for the sole purpose of prosecuting and punishing it. Here the evidence strongly tends to prove, if it does not conclusively do so, that their first and chief endeavor was to cause, to create, crime in order to punish it, and it is unconscionable, contrary to public policy, and to the established law of the land to punish a man for the commission of an offense of the like of which he had never been guilty, either in thought or in deed, and evidently never would have been guilty of if the officers of the law had not inspired, incited, persuaded, and lured him to attempt to commit it." The judgment in that case was reversed because of the "fatal error" of the trial court in refusing to instruct the jury to that effect. In Newman *v.* United States, supra, the applicable principle was thus stated by Circuit Judge Woods: "It is well settled that decoys may be used to entrap criminals, and to present opportunity to one intending or willing to commit crime. But decoys are not permissible to ensnare the innocent and law-abiding into the commission of crime. When the criminal design originates, not with the accused, but is conceived in the mind of the Government officers, and the accused is by persuasion, deceitful representation, or inducement lured into the commission of a criminal act, the Government is estopped by sound public policy from prosecution therefor." These quotations sufficiently indicate the grounds of the decisions above cited.

The validity of the principle as thus stated and applied is challenged both upon theoretical and practical grounds. The argument, from the standpoint of principle, is that the court is called upon to try the accused for a particular offense which is defined by statute and that, if the evidence shows that this offense has knowingly been committed, it matters not that its commission was induced by officers of the Government in the manner and circumstances assumed. It is said that where one intentionally does an act in circumstances known to him, and the particular conduct is forbidden by the law in those circumstances, he intentionally breaks the law in the only sense in which the law considers intent. (Ellis *v.* United States, 206 U. S. 246, 257.) Moreover, that as the statute is designed to redress a public wrong, and not a private injury, there is no ground for holding the Government estopped by the conduct of its officers from prosecuting the offender. To the suggestion of public policy the objectors answer that the legislature, acting within its constitutional authority, is the arbiter of public policy[6] and that, where conduct is expressly forbidden and penalized by a valid statute, the courts are not at liberty to disregard the law and to bar a prosecution for its violation because they are of the opinion that the crime has been instigated by Government officials.

It is manifest that these arguments rest entirely upon the letter of the statute. They take no account of the fact that its application in the circumstances under consideration is foreign to its purpose; that such an application is so shocking to the sense of justice that it has been urged that it is the duty of the court to stop the prosecution in the interest of the Government itself, to protect it from the illegal conduct of its officers and to preserve the purity of its courts. (Casey *v.* United States, supra.) But can an application of the statute having such an effect—creating a situation so contrary to the purpose of the law and so inconsistent with its proper enforcement as to invoke such a challenge—fairly be deemed to be within its intendment?

Literal interpretation of statutes at the expense of the reason of the law and producing absurd consequences or flagrant injustice has frequently been condemned. In United States *v.* Palmer (3 Wheat. 610, 631), Chief Justice Marshall, in construing the act of Congress of April 30, 1790, section 8 (1 Stat. 113), relating to robbery on the high seas, found that the words "any person or persons" were "broad enough to comprehend every human be-

[1] See also Regina *v.* Williams, 1 Car. & K., 195; People *v.* Mills, 178 N. Y. 274; People *v.* Ficke, 343 Ill. 367.

[2] See note of Francis Wharton to Bates *v.* United States (10 Fed. 97–99).

[3] Compare Olmstead *v.* United States (277 U. S. 438).

[4] See also, United States *v.* Adams, 59 Fed. 674; Sam Yick *v.* United States, 240 Fed. 60, 65; United States *v.* Echols, 253 Fed. 862; Peterson *v.* United States, 255 Fed. 433; Billingsley *v.* United States, 274 Fed. 86, 89; Luterman *v.* United States, 281 Fed. 374, 377; United States *v.* Pappagoda, 288 Fed. 214; Ritter *v.* United States, 293 Fed. 187; Di Salvo *v.* United States, 2 F. (2d) 222; Silk *v.* United States, 16 F. (2d) 568; Jarl *v.* United States, 19 F. (2d) 891; Corcoran *v.* United States, 19 F. (2d) 901; United States *v.* Washington, 20 F. (2d) 160; Cline *v.* United States, 20 F. (2d) 494; United States *v.* Mathues, 22 F. (2d) 979; Driskill *v.* United States, 24 F. (2d) 525; Ybor *v.* United States, 31 F. (2d) 42; Robinson *v.* United States, 32 F. (2d) 505; Vaccaro *v.* Collier, 38 F. (2d) 862; Patton *v.* United States, 42 F. (2d) 68; and cases collected in note in O'Brien *v.* United States, 51 F. (2d) 674, 678, including decisions of State courts. Compare Rex *v.* Titley, 14 Cox, C. C. 502; Blaikie *v.* Linton, 18 Scottish Law Rep. 583; London Law Times, July 30, 1881, p. 223; People *v.* Mills, 178 N. Y. 274; State *v.* Smith, 152 N. C. 798; Bauer *v.* Commonwealth, 135 Va. 463; State *v.* Gibbs, 109 Minn. 247; State *v.* Rippey, 127 S. C. 550. See also, 18 A. L. R. Ann. 146; 28 Columbia Law Rev. 1067; 44 Harv. Law Rev. 109; 2 So. Cal. Law Rev. 283; 41 Yale Law J. 1249; 10 Va. Law Rev. 316; 9 Tex. Law Rev. 276.

[5] See cases cited in note 4

[6] See C. B. & Q. R. R. Co. *v.* McGuire, 219 U. S. 549, 565; Green *v.* Frazier, 253 U. S. 233, 240.

ing"; but he concluded that "general words must not only be limited to cases within the jurisdiction of the State but also to those objects to which the legislature intended to apply them." In United States *v.* Kirby (7 Wall. 482) the case arose under the act of Congress of March 3, 1825 (4 Stat. 104), providing for the conviction of any person who "shall knowingly and willfully obstruct or retard the passage of the mail, or of any driver or carrier * * * carrying the same." Considering the purpose of the statute, the court held that it had no application to the obstruction or retarding of the passage of the mail or of its carrier by reason of the arrest of the carrier upon a warrant issued by a State court. The court said: "All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence. It will always, therefore, be presumed that the legislature intended exceptions to its language which would avoid results of this character. The reason of the law in such cases should prevail over its letter." And the court supported this conclusion by reference to the classical illustrations found in Puffendorf and Plowden. (Id., pp. 486–487.)

Applying this principle in Lau Ow Bew *v.* United States (144 U. S. 47), the court decided that a statute requiring the permission of the Chinese Government, and identification by certificate, of "every Chinese person other than a laborer," entitled by treaty or the act of Congress to come within the United States, did not apply to Chinese merchants already domiciled in the United States, who had left the country for temporary purposes, animo revertendi, and sought to reenter it on their return to their business and their homes. And in United States *v.* Katz (271 U. S. 354, 362), construing section 10 of the national prohibition act so as to avoid an unreasonable application of its words, if taken literally, the court again declared that "general terms descriptive of a class of persons made subject to a criminal statute may and should be limited where the literal application of the statute would lead to extreme or absurd results, and where the legislative purpose gathered from the whole act would be satisfied by a more limited interpretation."[1] See, to the same effect, Heydenfeldt *v.* Daney Gold Company (93 U. S. 634, 638); Carlisle *v.* United States (16 Wall. 147, 153); Oates *v.* National Bank (100 U. S. 239); Chew Heong *v.* United States (112 U. S. 536, 555); Holy Trinity Church *v.* United States (143 U. S. 457, 459–462); Hawaii *v.* Mankichi (190 U. S. 197, 212–214); Jacobson *v.* Massachusetts (197 U. S. 11, 39); United States *v.* Jin Fuey Moy (241 U. S. 394, 402); Baender *v.* Barnett (255 U. S. 224, 226); United States *v.* Chemical Foundation (272 U. S. 1, 18).

We think that this established principle of construction is applicable here. We are unable to conclude that it was the intention of the Congress in enacting this statute that its processes of detection and enforcement should be abused by the instigation by Government officials of an act on the part of persons otherwise innocent in order to lure them to its commission and to punish them. We are not forced by the letter to do violence to the spirit and purpose of the statute. This, we think, has been the underlying and controlling thought in the suggestions in judicial opinions that the Government in such a case is estopped to prosecute or that the courts should bar the prosecution. If the requirements of the highest public policy in the maintenance of the integrity of administration would preclude the enforcement of the statute in such circumstances as are present here, the same considerations justify the conclusion that the case lies outside the purview of the act and that its general words should not be construed to demand a proceeding at once inconsistent with that policy and abhorrent to the sense of justice. This view does not derogate from the authority of the court to deal appropriately with abuses of its process and it obviates the objection to the exercise by the court of a dispensing power in forbidding the prosecution of one who is charged with conduct assumed to fall within the statute.

We are unable to approve the view that the court, although treating the statute as applicable despite the entrapment, and the defendant as guilty, has authority to grant immunity or to adopt a procedure to that end. It is the function of the court to construe the statute, not to defeat it as construed. Clemency is the function of the Executive. (Ex parte United States, 242 U. S. 27, 42.) In that case this court decisively denied such authority to free guilty defendants in holding that the court had no power to suspend sentences indefinitely. The court, speaking by Chief Justice White, said: "If it be that the plain legislative command fixing a specific punishment for crime is subject to be permanently set aside by an implied judicial power upon considerations extraneous to the legality of the conviction, it would seem necessarily to follow that there could be likewise implied a discretionary authority to permanently refuse to try a criminal charge because of the conclusion that a particular act made criminal by law ought not to be treated as criminal. And thus it would come to pass that the possession by the judicial department of power to permanently refuse to enforce a law would result in the destruction of the conceded powers of the other departments and hence leave no law to be enforced." And while recognizing the humane considerations which had led judges to adopt the practice of suspending sentences indefinitely in certain cases, the court found no ground for approving the practice, "since its exercise in the very nature of things amounts to a refusal by the judicial power to perform a duty resting upon it and, as a consequence thereof, to an interference with both the legislative and executive authority as fixed by the Constitution." (Id., pp. 51, 52.) Where defendant has been duly indicted for an offense found to be within the statute and the proper authorities seek to proceed with the prosecution, the court can not refuse to try the case in the constitutional method because it desires to let the defendant go free.

Suggested analogies from procedure in civil cases are not helpful. When courts of law refuse to sustain alleged causes of action which grow out of illegal schemes, the applicable law itself denies the right to recover. Where courts of equity refuse equitable relief, because complainants come with unclean hands, they are administering the principles of equitable jurisprudence governing equitable rights. But in a criminal prosecution the statute defining the offense is necessarily the law of the case.

To construe statutes so as to avoid absurd or glaringly unjust results foreign to the legislative purpose is, as we have seen, a traditional and appropriate function of the courts. Judicial nullification of statutes, admittedly valid and applicable, has, happily, no place in our system. The Congress by legislation can always, if it desires, alter the effect of judicial construction of statutes. We conceive it to be our duty to construe the statute here in question reasonably, and we hold that it is beyond our prerogative to give the statute an unreasonable construction, confessedly contrary to public policy, and then to decline to enforce it.

The conclusion we have reached upon these grounds carries its own limitation. We are dealing with a statutory prohibition and we are simply concerned to ascertain whether in the light of a plain public policy and of the proper administration of justice, conduct induced as stated should be deemed to be within that prohibition. We have no occasion to consider hypothetical cases of crimes so heinous or revolting that the applicable law would admit of no exceptions. No such situation is presented here. The question in each case must be determined by the scope of the law considered in the light of what may fairly be deemed to be its object.

Objections to the defense of entrapment are also urged upon practical grounds. But consideration of mere convenience must yield to the essential demands of justice. The argument is pressed that if the defense is available it will lead to the introduction of issues of a collateral character relating to the activities of the officials of the Government and to the conduct and purposes of the defendant previous to the alleged offense. For the defense of entrapment is not simply that the particular act was committed at the instance of Government officials. That is often the case where the proper action of these officials leads to the revelation of criminal enterprises. (Grimm *v.* United States, supra.) The predisposition and criminal design of the defendant are relevant. But the issues raised and the evidence adduced must be pertinent to the controlling question whether the defendant is a person otherwise innocent whom the Government is seeking to punish for an alleged offense which is the product of the creative activity of its own officials. If that is the fact, common justice requires that the accused be permitted to prove it. The Government in such a case is in no position to object to evidence of the activities of its representatives in relation to the accused, and if the defendant seeks acquittal by reason of entrapment he can not complain of an appropriate and searching inquiry into his own conduct and predisposition as bearing upon that issue. If in consequence he suffers a disadvantage, he has brought it upon himself by reason of the nature of the defense.

What has been said indicates the answer to the contention of the Government that the defense of entrapment must be pleaded in bar to further proceedings under the indictment and can not be raised under the plea of not guilty. This contention presupposes that the defense is available to the accused and relates only to the manner in which it shall be presented. The Government considers the defense as analogous to a plea of pardon or of autrefois convict or autrefois acquit. It is assumed that the accused is not denying his guilt but is setting up special facts in bar upon which he relies regardless of his guilt or innocence of the crime charged. This, as we have seen, is a misconception. The defense is available, not in the view that the accused though guilty may go free but that the Government can not be permitted to contend that he is guilty of a crime where the Government officials are the instigators of his conduct. The Federal courts in sustaining the defense in such circumstances have proceeded in the view that the defendant is not guilty. The practice of requiring a plea in bar has not obtained. Fundamentally the question is whether the defense, if the facts bear it out, takes the case out of the purview of the statute because it can not be supposed that the Congress intended that the letter of its enactment should be used to support such a gross perversion of its purpose.

We are of the opinion that upon the evidence produced in the instant case the defense of entrapment was available and that the trial court was in error in holding that as a matter of law there was no entrapment and in refusing to submit the issue to the jury.

[1] In Hawaii *v.* Mankichi (190 U. S. 197, 214), the court referred with approval to the following language of the master of the rolls (afterwards Lord Esher) in Plumstead Board of Works *v.* Spackman (L. R. 13 Q. B. D. 878, 887): "If there are no means of avoiding such an interpretation of the statute" (as will amount to a great hardship), "a judge must come to the conclusion that the legislature by inadvertence has committed an act of legislative injustice; but to my mind a judge ought to struggle with all the intellect that he has, and with all the vigor of mind that he has, against such an interpretation of an act of Parliament; and, unless he is forced to come to a contrary conclusion, he ought to assume that it is impossible that the legislature could have so intended."

The judgment is reversed and the cause is remanded for further proceedings in conformity with this opinion.

Judgment reversed.

Mr. Justice McReynolds is of the opinion that the judgment below should be affirmed.

SUPREME COURT OF THE UNITED STATES
No. 177—October term, 1932

C. V. SORRELLS, PETITIONER, *v.* THE UNITED STATES OF AMERICA—ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT

(December 19, 1932)

Mr. Justice Roberts:

The facts set forth in the court's opinion establish that a prohibition enforcement officer instigated the commission of the crime charged. The courts below held that the showing was insufficient, as matter of law, to sustain the claim of entrapment, and that the jury were properly instructed to ignore that defense in their consideration of the case. A conviction resulted. The Government maintains that the issue of entrapment is not triable under the plea of not guilty, but should be raised by plea in bar or be adjudicated in some manner by the court rather than by the jury; and as the trial court properly decided the question, the record presents no reversible error. I think, however, the judgment should be reversed, but for reasons and upon grounds other than those stated in the opinion of the court.

Of late the term "entrapment" has been adopted by the courts to signify instigation of crime by officers of government. The cases in which such incitement has been recognized as a defense have grown to an amazing total.[1] The increasing frequency of the assertion that the defendant was entrapped is doubtless due to the creation by statute of many new crimes (e. g., sale and transportation of liquor and narcotics) and the correlative establishment of special enforcement bodies for the detection and punishment of offenders. The efforts of members of these forces to obtain arrests and convictions have too often been marked by reprehensible methods.

Society is at war with the criminal classes, and courts have uniformly held that in waging this warfare the forces of prevention and detection may use traps, decoys, and deception to obtain evidence of the commission of crime. Resort to such means does not render an indictment thereafter found a nullity nor call for the exclusion of evidence so procured. (Compare Olmstead *v.* United States, 277 U. S. 438.) But the defense here asserted involves more than obtaining evidence by artifice or deception. Entrapment is the conception and planning of an offense by an officer, and his procurement of its commission by one who would not have perpetrated it except for the trickery, persuasion, or fraud of the officer. Federal and State courts have held that substantial proof of entrapment as thus defined calls for the submission of the issue to the jury and warrants an acquittal. The reasons assigned in support of this procedure have not been uniform. Thus it has been held that the acts of its officers estop the Government to prove the offense. The result has also been justified by the mere statement of the rule that where entrapment is proved the defendant is not guilty of the crime charged. Often the defense has been permitted upon grounds of public policy, which the courts formulate by saying they will not permit their process to be used in aid of a scheme for the actual creation of a crime by those whose duty is to deter its commission.

This court has adverted to the doctrine (Casey *v.* United States, 276 U. S. 413), but has not heretofore had occasion to determine its validity, the basis on which it should rest, or the procedure to be followed when it is involved. The present case affords the opportunity to settle these matters as respects the administration of the Federal criminal law.

There is common agreement that where a law officer envisages a crime, plans it, and activates its commission by one not theretofore intending its perpetration, for the sole purpose of obtaining a victim through indictment, conviction, and sentence, the consummation of so revolting a plan ought not to be permitted by any self-respecting tribunal. Equally true is this whether the offense is one at common law or merely a creature of statute. Public policy forbids such sacrifice of decency. The enforcement of this policy calls upon the court, in every instance where alleged entrapment of a defendant is brought to its notice, to ascertain the facts, to appraise their effect upon the administration of justice, and to make such order with respect to the further prosecution of the cause as the circumstances require.

This view calls for no distinction between crimes mala in se and statutory offenses of lesser gravity, requires no statutory construction, and attributes no merit to a guilty defendant, but frankly recognizes the true foundation of the doctrine in the public policy which protects the purity of government and its processes. Always the courts refuse their aid in civil cases to the perpetration and consummation of an illegal scheme. Invariably they hold a civil action must be abated if its basis is violation of the decencies of life, disregard of the rules, statutory or common law, which formulate the ethics of men's relations to each other. Neither courts of equity nor those administering legal remedies tolerate the use of their process to consummate a wrong.[4] The doctrine of entrapment in criminal law is the analogue of the same rule applied in civil proceedings. And this is the real basis of the decisions approving the defense of entrapment, though in statement the rule is cloaked under a declaration that the Government is estopped or the defendant has not been proved guilty.

A new method of rationalizing the defense is now asserted. This is to construe the act creating the offense by reading in a condition or proviso that if the offender shall have been entrapped into crime the law shall not apply to him. So, it is said, the true intent of the legislature will be effectuated. This seems a strained and unwarranted construction of the statute, and amounts in fact to judicial amendment. It is not merely broad construction but addition of an element not contained in the legislation. The constituents of the offense are enumerated by the statute. If we assume the defendant to have been a person of upright purposes, law abiding, and not prone to crime—induced against his own will and better judgment to become the instrument of the criminal purpose of another—his action, so induced, none the less falls within the letter of the law and renders him amenable to its penalties. Viewed in its true light entrapment is not a defense to him; his act, coupled with his intent to do the act, brings him within the definition of the law; he has no rights or equities by reason of his entrapment. It can not truly be said that entrapment excuses him or contradicts the obvious fact of his commission of the offense. We can not escape this conclusion by saying that where need arises the statute will be read as containing an implicit condition that it shall not apply in the case of entrapment. The effect of such construction is to add to the words of the statute a proviso which gives to the defendant a double defense under his plea of not guilty, namely, (a) that what he did does not fall within the definition of the statute, and (b) entrapment. This amounts to saying that one who with full intent commits the act defined by law as an offense is nevertheless by virtue of the unspoken and implied mandate of the statute to be adjudged not guilty by reason of someone else's improper conduct. It is merely to adopt a form of words to justify action which ought to be based on the inherent right of the court not to be made the instrument of wrong.

It is said that this case warrants such a construction of the applicable act, but that the question whether a similar construction will be required in the case of other or more serious crimes is not before the court. Thus no guide or rule is announced as to when a statute shall be read as excluding a case of entrapment; and no principle of statutory construction is suggested which would enable us to say that it is excluded by some statutes and not by others.

The doctrine rests, rather, on a fundamental rule of public policy. The protection of its own functions and the preservation of the purity of its own temple belong only to the court. It is the province of the court and of the court alone to protect itself and the Government from such prostitution of the criminal law. The violation of the principles of justice by the entrapment of the unwary into crime should be dealt with by the court no matter by whom or at what stage of the proceedings the facts are brought to its attention.[5] Quite properly it may discharge the prisoner upon a writ of habeas corpus.[6] Equally well may it quash the indictment or entertain and try a plea in bar.[7] But its powers do not end there. Proof of entrapment, at any stage of the case, requires the court to stop the prosecution, direct that the indictment be quashed, and the defendant set at liberty.[8] If in doubt as to the facts it may submit the issue of entrapment to a jury for advice. But whatever may be the finding upon such submission the power and the duty to act remain with the court and not with the jury.

Such action does not grant immunity to a guilty defendant. But to afford him as his right a defense founded not on the statute, but on the court's view of what the legislature is assumed to have meant, is to grant him unwarranted immunity. If the court may construe an act of Congress so as to create a defense for one whose guilt the act pronounces, no reason is apparent why the same statute may not be modified by a similar process of construction as to the penalty prescribed. But it is settled that this may not be done. Ex parte United States (242 U. S. 27). The broad distinction between the refusal to lend the aid of the court's own processes to the consummation of a wrong and the attempt to modify by judicial legislation the mandate of the statute as to the punishment to be imposed after trial and conviction is so obvious as not to need discussion.

Recognition of the defense of entrapment as belonging to the defendant and as raising an issue for decision by the jury called to try him upon plea of the general issue, results in the trial of a false issue wholly outside the true rule which should be applied by the courts. It has been generally held, where the defendant has proved an entrapment, it is permissible for the Government to show in rebuttal that the officer guilty of incitement of the

[1] See O'Brien *v.* United States, 51 F. (2d) 674, footnote 1, p. 678.

[4] See Hannay *v.* Eve (3 Cr. 242, 247); Bank of United States *v.* Owens (2 Pet. 527, 538); Bartle *v.* Coleman (4 Pet. 184, 188); Hanauer *v.* Doane (12 Wall. 342, 349); Trist *v.* Child (21 Wall. 441, 448); Hazelton *v.* Sheckels (202 U. S. 71); Crocker *v.* United States (240 U. S. 74, 78).

[5] Compare Gambino *v.* United States (275 U. S. 310, 319).

[6] See United States ex rel. Hassell *v.* Mathues (22 F. (2d) 979).

[7] Compare United States *v.* Pappagoda (288 Fed. 214); Spring Drug Co. *v.* United States (12 F. (2d) 852).

[8] In United States *v.* Echols (253 Fed. 862), upon the tender of a plea of guilty, the court of its own motion examined the prisoner and the officers concerned in his arrest; and being satisfied that these officers had instigated the crime, declared that public policy required that the plea be refused and the case dismissed. In United States *v.* Healy (202 Fed. 349), a judgment and sentence were set aside and the defendant discharged upon the court's ascertaining that the conviction was procured by entrapment.

crime had reasonable cause to believe the defendant was a person disposed to commit the offense. This procedure is approved by the opinion of the court. The proof received in rebuttal usually amounts to no more than that the defendant had a bad reputation, or that he had been previously convicted. Is the statute upon which the indictment is based to be further construed as removing the defense of entrapment from such a defendant?

Whatever may be the demerits of the defendant or his previous infractions of law these will not justify the instigation and creation of a new crime as a means to reach him and punish him for his past misdemeanors. He has committed the crime in question, but by supposition only, because of instigation and inducement by a Government officer. To say that such conduct by an official of Government is condoned and rendered innocuous by the fact that the defendant had a bad reputation or had previously transgressed is wholly to disregard the reason for refusing the processes of the court to consummate an abhorrent transaction. It is to discard the basis of the doctrine and in effect to weigh the equities as between the Government and the defendant when there are in truth no equities belonging to the latter, and when the rule of action can not rest on any estimate of the good which may come of the conviction of the offender by foul means. The accepted procedure in effect pivots conviction in such cases not on the commission of the crime charged but on the prior reputation or some former act or acts of the defendant not mentioned in the indictment.

The applicable principle is that courts must be closed to the trial of a crime instigated by the Government's own agents. No other issue, no comparison of equities as between the guilty official and the guilty defendant, has any place in the enforcement of this overruling principle of public policy.

The judgment should be reversed and the cause remanded to the district court with instructions to quash the indictment and discharge the defendant.

Mr. Justice Brandeis and Mr. Justice Stone concur in this opinion.

Mr. ASHURST. Mr. President, as to wire tapping I am not unaware of the fact that the Supreme Court some years ago sustained the conviction of a defendant where there was wire tapping, although the laws of the State in which the defendant lived denounced wire tapping. I realize that seldom do lawyers quote dissenting opinions, but lawyers also have frequently found that the reasoning in some instances in the dissenting opinion may be as sound as that of the prevailing opinion. I read what none other than former Associate Justice Holmes said in a dissenting opinion in the wire-tapping case:

It is desirable that criminals should be detected, and to that end that all available evidence should be used. It also is desirable that the Government should not itself foster and pay for other crimes, when they are the means by which the evidence is to be obtained. * * * We have to choose, and for my part I think it a less evil that some criminals should escape than that the Government should play an ignoble part.

For those who agree with me, no distinction can be taken between the Government as prosecutor and the Government as judge. If the existing code does not permit district attorneys to have a hand in such dirty business it does not permit the judge to allow such iniquities to succeed. * * * It is true that a State can not make rules of evidence for courts of the United States, but the State has authority over the conduct in question, and I hardly think that the United States would appear to greater advantage when paying for an odious crime against State law than when inciting to the disregard of its own.

Mr. President, this language is not the "shouting of some demagogue appealing to prejudice." This comes from a former Associate Justice of the Supreme Court of the United States, than whom for learning, for humanity, for a true understanding of the genius of the American Government, no greater judge was ever on the bench.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from Idaho?

Mr. ASHURST. With pleasure.

Mr. BORAH. I have not had time to read the bill. May I ask the Senator if there is a provision in the bill which permits wire tapping?

Mr. ASHURST. The House inserted language which would not permit any of the funds herein appropriated to pay for informers or to pay for wire tapping or for purchased evidence. The Senate Committee on Appropriations, on page 27 of the bill, have, in my judgment, appreciably weakened the force and intent of the House provision. I want to make it clear to the Senate that I favor the language of the bill as it passed the House. I prefer infinitely the House provision which denounced the use of Government funds in committing crimes or in purchasing evidence.

I read now from Mr. Justice Brandeis in the same case in which Mr. Justice Holmes spoke, reported in 277 U. S. 436. He said:

The evil incident to invasion of the privacy of the telephone is far greater than that involved in tampering with the mails. Whenever a telephone line is tapped, the privacy of the persons at both ends of the line is invaded and all conversations between them upon any subject, and although proper, confidential, and privileged, may be overheard. Moreover, the tapping of one man's telephone line involves the tapping of the telephone of every other person whom he may call or who may call him. As a means of espionage, writs of assistance and general warrants are but puny instruments of tyranny and oppression when compared with wire tapping.

Mr. COSTIGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from Colorado?

Mr. ASHURST. Certainly.

Mr. COSTIGAN. Will the Senator from Arizona be good enough to place in the RECORD the language of the provision as it passed the House and the language of the provision as reported by the Senate Committee on Appropriations?

Mr. ASHURST. I ask the clerk first to read the text of the provision as the bill passed the House.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

Provided further, That no funds hereby appropriated shall be used for the purchase of intoxicating liquors nor to pay informers nor for the purchase of evidence.

Mr. ASHURST. I now ask the clerk to read it as the Senate Committee on Appropriations reported the proviso.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

Provided further, That no funds hereby appropriated shall be used for the purchase of intoxicating liquors which are consumed by the investigator or anyone with him, nor to pay informers, except that the Director of Prohibition may authorize the payments of rewards for information of major violations of the law.

Mr. ASHURST. Thus it will be observed that the proviso denouncing the purchase of evidence was stricken out by the Senate committee.

Mr. HALE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from Maine?

Mr. ASHURST. I yield with pleasure.

Mr. HALE. The Senator realizes that the exact words of the House text are in the bill as reported by the Senate Committee on Appropriations so far as wire tapping is concerned. We made certain slight changes as regards the purchase of liquor for evidence.

Mr. ASHURST. Yes, but those slight changes are the foxes that gnaw the vines.

Mr. HALE. The Senator from Arizona wants to stop altogether the carrying out of the prohibitory law and its enforcement. If we enforce it at all we have to have some money for these purposes.

Mr. ASHURST. I am sure the learned Senator from Maine would not impute to me any desire to weaken the enforcement provisions of any law. I am simply inveighing against the unconstitutionality and the inhumanity of the system which takes and uses Government money to entrap men and to purchase evidence. In other words, in my judgment, one of the reasons why some of the votes cast here this afternoon for the repeal resolution were so cast was because of the unconstitutional manner in which the freedom of citizens has been imperiled by Federal minions in some cases.

Mr. WALSH of Massachusetts. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from Massachusetts?

Mr. ASHURST. Certainly.

Mr. WALSH of Massachusetts. I want to say in reply to the question of the Senator from Maine that I doubt if there is any Senator who has more zealously advocated large appropriations for the enforcement of the prohibition law than the Senator from Arizona.

Mr. ASHURST. I thank the Senator. Simply because I want proper appropriations to enforce the prohibition law does not mean that I want appropriations to violate the law.

Mr. President, each and every part of the Constitution to me stands the same. All of its provisions are of equal force, dignity, and effect. Some persons have been inclined at times to overlook the fourth and fifth amendments to the Constitution.

In our Constitution there is probably no feature around which clusters more radiant romance or the memorials of which give us more fascinating glimpses of bygone days than the fourth and fifth amendments. In all our jurisprudence there is no other principle that has been more definitely put into position or more joyously accepted by Americans than the principle of the fourth and fifth amendments. They are intimately related; each lends strength to the other and, notwithstanding their apparent nonchalance, they sustain and protect the very essence of constitutional liberty and security. They guarantee repose and the privacies of life.

These noble amendments are as follows:

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

A gentleman calling upon me once asked, "Did you ever read Lord Coke's famous maxim in Semayne's case?" to wit, "The house of everyone is to him as his castle and fortress, as well for his defense against injury and violence as for his repose." I said, "I am familiar with Coke, but that was the law of England 1,000 years before my Lord Coke adorned the bench." This is law in every State and was brought to the Colonies when our ancestors migrated hither. I have, as the Senator from Massachusetts says, voted for millions of dollars to enforce prohibition; and as long as the law remains in force, I shall continue to vote for millions of dollars to enforce prohibition; but I shall not wittingly vote for any appropriation which authorizes any agency of the Federal Government to induce citizens to commit crime, cruelly entrap citizens, and I am opposed to the purchase of evidence. I say further that those who love liberty should take for their motto "Principiis obsta"—resist from the first; in other words, do not permit the tyranny of government, do not permit the tyranny of the state, ever to get a start.

It is refreshing, it is like a breath of pure air in a fetid atmosphere, to find that another body of Congress, the body which holds the purse strings and sends to us the appropriation bills, has set its seal of condemnation upon the use of Federal funds to induce men to violate the law, has condemned "wire tapping" and purchase of evidence.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from Utah?

Mr. ASHURST. I yield.

Mr. KING. Does the Senator believe that the words "nor for the purchase of evidence" would comprehend evidence secured by the tapping of wires by employees of the Prohibition Department? I am in entire sympathy with the position of the Senator.

Mr. ASHURST. In my judgment, the words "nor for the purchase of evidence" should be restored, because if they be stricken from the bill we, by inference at least, say that such evidence may be purchased.

Mr. KING. Mr. President, will the Senator yield further?

Mr. ASHURST. Certainly.

Mr. KING. I am not so sure, Mr. President, that the words to which I referred a moment ago and which have just been quoted by the Senator would interdict the course heretofore pursued of tapping wires and using the evidence secured by wire tapping in the prosecution of cases. Personally I should like to see the language of the House bill restored; and, in addition to the words "nor for the purchase of evidence," I should like to see added the words "by the tapping of wires or by wire tapping."

Mr. ASHURST. I was quite content with the language used by the House; but I agree with the Senator's suggestion as to language that would preclude the use of wire tapping. We are asking that the Federal Government itself shall set an example of obedience to law and shall be a model of propriety in law observance.

Mr. HALE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from Maine?

Mr. ASHURST. I gladly yield to the chairman of the committee.

Mr. HALE. I should like to say to the Senator that I probably "got my wires crossed" when I said a while ago that he was one of those who did not want to enforce the prohibitory law. I assumed from his opposition to this provision that he might be one of those—and, of course, there are some in the Senate—who do not want much, if any, enforcement of the prohibition law. However, I recall the Senator's record in the past, and I realize that I was entirely wrong.

Mr. ASHURST. Mr. President, if I said anything in reply that savored of discourtesy or acidulated speech, I cheerfully withdraw it, because the Senator knows that I have been in favor of the enforcement, not only of the prohibition laws, but of all other laws, and have made amends.

Mr. KING and Mr. HALE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Arizona yield further; and if so, to whom?

Mr. ASHURST. I yield first to the Senator from Utah, and then I will yield to the Senator from Maine.

Mr. KING. I hope the Senator from Maine will modify his statement made a moment ago when he said, in substance, that there are Members in the United States Senate who do not want to see the prohibition laws enforced. There are Senators who believe that the eighteenth amendment should be repealed, and that the Volstead Act should be repealed, but I do not think there is a single Senator who, so long as the Volstead Act is in force and the eighteenth amendment is in effect, does not believe that the prohibition law, as all other laws, should be enforced. I think the Senator's statement is an unwarranted indictment of Members of this body.

Mr. HALE. Mr. President, I hope the Senator is right. I do not think my statement is really an indictment of anyone; it was not intended as such, but I was simply calling attention to the fact that there are Senators who differ from the Senator from Arizona, who are not very anxious for a strenuous enforcement of the prohibitory law. There probably are certain Senators in the United States Senate who are in that category.

Mr. KING. Mr. President, will the Senator from Arizona yield further?

Mr. ASHURST. I yield.

Mr. KING. It depends upon what the Senator means by "strenuous enforcement." I have voted for every appropriation that has been asked for the enforcement of the Volstead Act, though I voted against the passage of the Volstead Act itself. There are many Senators, I think—and I hope that includes the Senator from Maine—who have objected to the methods employed by the Department of Justice and its agents in the enforcement of the Volstead Act, in their murderous attacks upon citizens, in wire-tapping activities, and in the scandalous methods they have pursued in the attempt to enforce the act. There is a good deal of difference between proper enforcement of the law in a legal, just, and righteous way and the improper methods which have so frequently been employed by the prohibi-

tion agents in the enforcement of the prohibition laws of our country.

Mr. HALE. I will say that I did not have the Senator in mind, but I knew of certain Senators who wanted to eliminate entirely the appropriation for the enforcement of the prohibitory law, and I think I am justified in saying that they do not want to provide for any very strenuous enforcement of that law.

Mr. ASHURST. Mr. President, my reply to the kind-hearted Senator from Maine is——

Mr. HALE. Mr. President——

Mr. ASHURST. I yield to the Senator.

Mr. HALE. Will the Senator tell me what he would like to do with this particular amendment?

Mr. ASHURST. I should like to see the Senate committee amendment rejected and the language of the House text restored. I should prefer to have the language suggested by the Senator from Utah [Mr. KING], but that would probably take some time. He would be uncandid, disingenuous, who here or elsewhere would deny that not only officers enforcing prohibition but those enforcing some other laws have in the past decade in too many instances induced men to commit crimes in order that they, the officers charged with the duty of arresting, might make what they call "a record" in arresting a large number of men. The language of the House bill, to my mind, is a refreshing assurance that the unlawful tyrannies and cowardly inhumanities that have heretofore characterized some law-enforcement officials shall not be further perpetrated and paid for by the use of Government money.

Too frequently have officers of the United States, minions of power, by some strange lycanthropy, transformed themselves into werewolves that gnaw and consume the liberties and the immunities of the American citizen, who is defenseless under the circumstances. Therefore I say that the House language is a refreshing assurance that these inhumanities and unconstitutional breaches of the liberties of the citizens shall not be committed by the use of funds furnished by the Government.

I respectfully ask for the restoration of the House language.

Mr. KING and Mr. HALE addressed the Chair.

Mr. ASHURST. I yield first to the Senator from Utah.

Mr. KING. I understand that the Senator is not opposing the language that has been introduced by the Senate committee, but, in addition to that, he desires to have the words "nor for the purchase of evidence," which were stricken out, restored?

Mr. ASHURST. I do.

Mr. KING. I think I will support the Senator.

Mr. McKELLAR. Mr. President, I hope the chairman of the committee will accept that amendment and let it go to conference.

Mr. HALE. Does the Senator desire to have the words "nor the purchase of evidence" restored?

Mr. KING. Yes.

Mr. HALE. I have no objection at all to that.

Mr. McKELLAR. I suggest that the Senator from Arizona offer an amendment.

Mr. ASHURST. Mr. President, as I understand, the question is on agreeing to the amendment in lines 5 and 6. I want to disagree to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment in lines 4 and 5, inserting the language which the clerk will report.

The CHIEF CLERK. On page 27, line 4, after the word "liquors," it is proposed to insert "which are consumed by the investigator or anyone with him."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. ASHURST. Now I want the other amendment disagreed to.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. Also, in line 5, it is proposed to strike out the words "nor for the purchase of evidence" and insert "except that the Director of Prohibition may authorize the payments of rewards for information of major violations of the law."

Mr. ASHURST. I desire that the words "nor for the purchase of evidence" be restored, so that the money appropriated may not be used for the purchase of evidence. I want that amendment rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was rejected.

Mr. HALE. Mr. President, I insist upon understanding what this amendment does. Does the Senator mean to leave in the words which the committee have added?

Mr. FESS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FESS. I think we are getting in confusion here. We can divide a question striking out and inserting. The desire is to restore what is stricken out without interfering with what is inserted.

Mr. KING. That is right.

Mr. ASHURST. Mr. President, of course, I realize that no man may altogether have his own likes or views adopted by the Senate. My purpose would be to disagree to the Senate committee amendments, and therefore that would restore the language of the House.

Mr. HALE. I understood the Senator to say that he would be willing to take the Senate amendments if we put back the words that were stricken out on page 27, line 5.

Mr. McKELLAR. That was my understanding.

Mr. ASHURST. No; I do not want any language which prohibits the purchase of evidence stricken out. I want the language which denounces and refuses to use Federal moneys for the purchase of evidence to remain in the bill.

Mr. HALE. I stated that I was willing to have those words that are stricken out on lines 5 and 6 left in the bill, together with the rest of the amendment as amended.

Mr. ASHURST. I shall be content with that.

Mr. HALE. There is not any question about that.

Mr. FESS. Mr. President, in order that we may do what both Senators have requested, we shall have to be permitted to divide this amendment. I ask unanimous consent that we may so proceed to vote, first on the part stricken out, and have it rejected, and then vote on the matter inserted, and have it agreed to.

Mr. ASHURST. That is a composition of the matter to which I could agree.

The PRESIDING OFFICER. The Senator from Ohio asks unanimous consent that the committee amendment, which is to strike out and insert, may be divided and voted upon separately, contrary to the rules. Is there objection? The Chair hears none, and, without objection, the vote will come on the motion to strike out.

The question is on the committee amendment to strike out.

The amendment was rejected.

The PRESIDING OFFICER. The language proposed to be stricken out by the committee amendment remains in the bill. The vote now comes on the language inserted by the committee, which will be stated.

The Chief Clerk read as follows:

Except that the Director of Prohibition may authorize the payments of rewards for information of major violations of the law.

The PRESIDING OFFICER. The question is on the committee amendment inserting the language just read.

Mr. KING. Mr. President, I think the clerk did not read all of the amendment which we are to vote upon now, namely, the words "which are consumed by the investigator or anyone with him."

The PRESIDING OFFICER. That amendment was rejected previously.

Mr. KING. I understand that the composition—using the word of my friend—which was entered into, contemplated

the restoration of all of the amendments containing new language reported by the committee.

Mr. HALE. That is quite right.

The PRESIDING OFFICER. No; the Senate voted on the committee amendment on page 27, lines 4 and 5, and the committee amendment was rejected.

Mr. DICKINSON. Mr. President, there was a misunderstanding on this side of the Chamber with reference to it; and I ask unanimous consent that we now reconsider the vote by which the committee amendment was rejected, and that we consider all of the language inserted in the Senate committee amendment, which will be, commencing in line 4, following the word "liquors," the words "which are consumed by the investigator or anyone with him," and in line 6, beginning with the word "except" and continuing through to the period in line 8. Then we will have a full comprehension of just what we are attempting to do.

The PRESIDING OFFICER. Is there objection to a reconsideration of the vote whereby the first committee amendment was rejected? The Chair hears none; and, without objection, the vote by which the first committee amendment on page 27 was rejected is reconsidered.

The vote recurs on the adoption of the first committee amendment on page 27.

Mr. DICKINSON. Mr. President, I want to suggest here that the thing that is behind this is that the director simply wants to use this authority in what he calls the big conspiracy cases. It is not used in any other cases; and it is only when he makes a survey of the situation and finds that this is the only way that the authorities can reach the problem, that they want to use any funds for this purpose. In view of the restoration of the language that was restored in lines 5 and 6, I certainly hope that the committee language will be continued in the bill.

Mr. KING. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. KING. As I understand the position of the Senator, then, he favors the purchase of evidence, including wire tapping, and is pleading now for the restoration of the words which permit that?

Mr. DICKINSON. Oh, no; the wire tapping is prevented down here on the bottom of page 26. It says that no part of this appropriation shall be used for or in connection with wire tapping. That is specifically provided.

Mr. KING. Then I will modify my interrogation. The Senator, then, desires that the Prohibition Unit or the Government may be permitted to purchase evidence?

Mr. DICKINSON. To purchase evidence but not by its investigators.

Mr. FESS. That is already stricken out.

Mr. HALE. The purchase of evidence is simply a reward for evidence that is given. It simply takes effect in major cases, under the Senate amendment.

Mr. ASHURST. Mr. President, if the Senator will yield, I do not object to rewards being offered. They are proper and usual. I simply ask that the language stricken out on lines 5 and 6, to wit, "nor for the purchase of evidence," shall be restored.

Mr. FESS. That has been restored.

The PRESIDING OFFICER. That has been done. May the Chair say to the Senator from Arizona that the question recurs on the first amendment in lines 4 and 5.

The question is on whether that committee amendment is to be adopted.

The question is on the committee amendment on lines 4 and 5.

The amendment was agreed to.

The PRESIDING OFFICER. The motion having been put to strike out, and that motion having been lost, the question now recurs on the motion to insert the language in lines 6, 7, and 8.

The amendment was agreed to.

Mr. ASHURST. Will the Chair pardon me and the Senate indulge me a moment while I ask the clerk now to read the provision commencing on page 26, line 23, as it will go to conference?

The PRESIDING OFFICER. The clerk will read, as requested.

The Chief Clerk read as follows:

Provided, That no part of this appropriation shall be used for or in connection with "wire tapping" to procure evidence of violations of the national prohibition act, as amended and supplemented: *Provided further*, That no funds hereby appropriated shall be used for the purchase of intoxicating liquors which are consumed by the investigator or anyone with him, nor to pay informers, nor for the purchase of evidence except that the Director of Prohibition may authorize the payments of rewards for information of major violations of the law.

The PRESIDING OFFICER. The clerk will continue the reading of the bill.

The reading of the bill was resumed.

The next amendment was, on page 30, after line 12, to strike out:

The Court of Claims is authorized and directed to prescribe a graduated schedule of charges to be made and collected for certified copies of its decisions and findings of fact. The minimum charge to be prescribed for any such copy shall not be less than 25 cents.

The amendment was agreed to.

The next amendment was, under the subhead "Penal and correctional institutions," on page 36, line 22, after the colon, strike out the following proviso: "*Provided*, That no part of this appropriation shall be used for the procurement and/or installation in any Federal correctional or penal institution of machinery for the manufacture of metal furniture and/or metal office equipment" and in lieu thereof to insert "*Provided*, That $400,000 of the prison industries working-capital fund shall, on or before June 30, 1933, be covered into the Treasury of the United States to the credit of 'Miscellaneous receipts.'"

Mr. BULKLEY. Mr. President, I hope this committee amendment may be rejected.

The House bill contains a proviso against the purchase of certain labor-saving machinery to manufacture metal furniture.

In the first place, it is gravely questionable whether labor-saving machinery ought to be used in the penitentiaries anyway. In the second place, this is the beginning of a new industry of manufacturing metal furniture in the penitentiaries at a time when the metal-furniture business is particularly depressed anyway. There are so few people entering into new business and opening up new offices that the trade is depressed anyway, and it is an undue hardship on this particular industry.

This industry is perhaps more dependent upon labor-saving machinery and has a larger output per man than most other industries, although there is some conflict of testimony about that. The Director of Prisons proposes to buy paint-spraying machinery in connection with the manufacture of metal furniture, which seems to me grossly improper, inasmuch as the main object of the management of the penitentiary should be to provide maximum amounts of hand labor. There is no reason why convicts sentenced to labor should be permitted to work on labor-saving machinery and throw free men out of employment in these bad times.

I hope the chairman of the committee is not going to insist upon this amendment.

Mr. BLAINE. Mr. President, will the Senator point out the language?

Mr. BULKLEY. Yes. The language is on page 36. The committee proposes to strike out the following language which was included in the House bill, commencing at line 22:

Provided, That no part of this appropriation shall be used for the procurement and/or installation in any Federal correctional or penal institution of machinery for the manufacture of metal furniture and/or metal office equipment.

Mr. BLAINE. Mr. President, will the Senator submit to a question? Why use the word "metal," and discriminate against the woodworking industries?

Mr. BULKLEY. I have no objection to striking out the word "metal," but the reason why the amendment was written in that form is that a specific plan was testified to by the Director of Prisons to install machinery for the manufacture of metal furniture, and I do not know of any

purpose to use machinery for the manufacture of wood furniture.

Mr. BLAINE. But may I call the Senator's attention to the fact that if the director's plan to carry out the manufacturing of metal furniture is defeated, he may very well turn to the manufacturing of wood furniture—furniture made out of forest products.

Mr. BULKLEY. I should be very well pleased to see the word "metal" struck out. I am addressing myself to opposing the adoption of the committee amendment, which would strike out the whole proviso; and I undertook to explain to the Senator why I am informed that the word "metal" was put in there. I did not mean to defend it. I should be perfectly willing to see the word struck out.

Mr. BLAINE. If that language is restored, then we might very well have the situation of having machinery installed for the manufacture of furniture from forest products.

Mr. BULKLEY. I take it that the first step would be to vote down the committee amendment; and then, if the Senator cares to offer any amendment to strike out the word "metal," I shall be glad to vote with him.

Mr. BLAINE. I am not always so certain that under those circumstances an amendment would carry. Therefore, I am opposed to making the discrimination, and I would follow any course by which I could effectuate that purpose.

Mr. BULKLEY. I do not know of any way to do it unless we vote down the committee amendment first.

Mr. HALE. Mr. President——

Mr. BULKLEY. I yield to the chairman of the committee.

Mr. HALE. I should like to say a word about this matter. This installation of machinery was to go in the new Federal prison at Lewisburg, Pa. They are to have about 1,200 convicts in that prison, and no preparation has been made in any way for putting any of those convicts to work. The practice in the prisons is to put about 10 per cent of the population of each prison to work; and they try, as far as possible, to put them on work that will not be competitive with outside interests. All of the products of the work of these men have to be sold to the Government. In this particular case the product is to be about $40,000, and that from an industry which produces about $40,000,000, or one-tenth of 1 per cent.

Mr. BULKLEY. Mr. President, there has been so much conflict in the testimony as to how much is the annual product of that industry that I doubt whether any of those figures are particularly reliable.

Mr. HALE. I have the figures that have been given me by the department.

Mr. BULKLEY. I have a number of figures that have been given to me that show a very wide discrepancy one way or the other.

Mr. HALE. That is quite true. The Senator probably has the figures that were given by the witness before the Appropriations Committee, but I found that those figures which he gave had to do with a selected number of 50 plants in the industry and not with the entire industry. They were simply the ones that had reported to the Bureau of the Census.

Mr. BULKLEY. The Director of Prisons made the mistake of referring to metal furniture generally, without discriminating between office furniture and other classes.

Mr. HALE. The reference was to the fact that $40,000,000 worth of such furniture is produced in the United States, some of which would be produced by this particular installation, and that includes furniture and fixtures for offices and stores, $27,919,000, furniture for public buildings, $8,523,000, and lockers, $3,300,000. The three together make up about $40,000,000.

Mr. BULKLEY. Does the Senator say that the $40,000,000 relates only to office furniture?

Mr. HALE. It relates to the various kinds of furniture I have read about, which could be made under this installation in the State prisons. The Government uses slightly over a million dollars' worth of this metal furniture, and this $40,000 product represents about 4 per cent of the Government's consumption. It does not seem to me that that is very great.

These prisoners have to be put to work at something. Their moral and physical welfare depends upon it, and the prison authorities have tried their best to find what the prisoners could do which would provide the least competition with outside industry. If they do not do this work, they will either have to increase the employment in some other kind of work, and thus increase already existing competition with outside industry, or they will have to establish some other new business.

Mr. BULKLEY. I submit that this provision is establishing a new outside business. This is a business the prisoners have not been in before, as I understand it.

Mr. HALE. It is.

Mr. BULKLEY. I am not prepared to question the figures given by the chairman of the committee, except to say that there has been a great deal of confusion in quoting figures, and I am not sure whether he is right or not. I can not say definitely that he is wrong.

I have some other observations to make, but for the moment I yield to my colleague.

Mr. FESS. Mr. President, I understand that my colleague is asking only the restoration of the House language, and that his objection is not to the part inserted?

Mr. BULKLEY. Oh, no; I did not intend to object to the inserted part.

Mr. FESS. I hope the chairman of the committee will agree to restore the House language. I have gone into this matter, and I know there are very few people who would be employed on this particular work. I read the testimony of the superintendent, who stated that he thought about 120 to 200 people would be employed.

Mr. BULKLEY. Even that is disputed. It is questioned whether this amount of furniture should not be made by a very much smaller number of men than that.

Mr. FESS. That is true. If we look at it from a humanitarian standpoint, the argument is not very strong, because very few would be employed. On the other hand, it is in violation of a principle which we have established, to avoid employing prison labor in competition with paid labor. I hope the chairman of the committee will accept the suggestion of my colleague without any further insistence.

Mr. KING. Mr. President, will the Senator from Ohio yield?

Mr. BULKLEY. I yield.

Mr. KING. I wanted to ask the Senator from Ohio a question for information. In view of the large number of penitentiaries and correctional institutions which this bill provides for, I was wondering what disposition is to be made of those who are incarcerated. Are we to let them remain idle?

Mr. BULKLEY. I do not want the Senator to think I am opposing the employment of prison labor for any purpose whatever. The criticism is that the proposal is to start the prisoners into a new business in competition with a business which is peculiarly subject to the effects of the depression, the office-furniture business. Think how many people are opening offices now. The Government furnishes a large proportion of the demand in that particular line of work.

I say, further, that this is a kind of business that requires an exceptionally large amount of labor-saving machinery, and it is stated that this very appropriation is to be spent for labor-saving machinery, the proposal even going so far as to include paint-spraying machinery. They will not even paint the furniture by hand. They talk about providing the maximum amount of labor for their convicts. Let me read from the testimony of the Director of Prisons and see whether he is trying to find the maximum amount of labor.

Mr. KING. Mr. President, will the Senator yield a moment?

Mr. BULKLEY. I yield.

Mr. KING. I am making no comment upon the particular amendment to which the Senator refers, but, hastily looking into the bill, I find perhaps a dozen or more penitentiaries and correctional institutions mentioned, places for the in-

carceration of those who have violated the law, many of them young persons, whom we seek to reform, and I was wondering whether we are doing right in incarcerating thousands of young men and young women, and thousands of persons of mature years, and leaving them in idleness, making no effort whatever for their reform.

Mr. BULKLEY. Mr. President, to vote down this amendment would not mean voting to keep them in idleness. What I wanted to call attention to was the testimony of Mr. Bates, the Director of the Bureau of Prisons. He says that he is going to buy paint-spraying machinery in connection with the manufacture of this metal furniture, and I quote now from what he says:

> Now, you might think that we could paint by hand, but it costs us so much more for paint that we have been obliged to adopt the spray process of painting and use the machinery that every modern plant and industry uses.

Is that an effort to employ the maximum labor to keep convicts busy? According to the statement of the director, that is directly an effort to compete in the modern style with modern industry. There is no other interpretation of that language possible.

Mr. HALE. Does not the Senator think that in some way the convicts ought to be employed?

Mr. BULKLEY. I have repeatedly said that I think so, and that the objection I am making is to the selection of this furniture industry, which is peculiarly subject to the exigencies of the depression.

Mr. HALE. Can the Senator suggest any activity in which they might engage that would not compete in some way with outside industry?

Mr. BULKLEY. I think the Senator's point is well taken there, that this is a very bad time to introduce any new industry into the prisons, but especially this industry about which we are talking.

Mr. HALE. The Senator does not think we ought to double up on their work in other industries in which they are already competing, does he? What we want to do is to diversify as much as possible.

Mr. BULKLEY. Whatever these prisoners have done before they can continue to do for another year. The suggestion is for the establishment of a new industry in the prisons.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield to me?

Mr. BULKLEY. I yield.

Mr. WALSH of Massachusetts. May I say to the Senator, on the principle that the Federal Government should not employ its prisoners to destroy or injure the business of private manufacturers, that there are provisions in the law limiting the volume and amount of certain products which can be produced. That is true in regard to shoes, so as not to interfere with shoe manufacturers.

May I say, while I am on my feet, that I have received protests similar to those received by the Senator from Ohio, and they seem to me to have merit.

Mr. HALE. I will say this, Mr. President: That this installation of machinery would allow them to put out more than $40,000 worth a year. But that is not what they are asking for.

Mr. BULKLEY. That intensifies my objection. If the appropriation is big enough to allow a still larger output, and we are relying only on a general promise that it will be confined to a certain particular output for this year, it will only make the objection so much the stronger for the future.

Mr. HALE. The answer to that is that they do not want to use more than 10 per cent of the convicts for this purpose. That is the policy all over the country.

Mr. BULKLEY. It is rather a small output with the use of machinery, if that is what they get out of it.

I am ready for a vote, and I hope the committee amendment will be rejected.

Mr. COSTIGAN. Mr. President, it is my profound conviction that the Senate committee acted with wisdom when it adopted this amendment. A similar question was before the Senate a year ago and was decided in favor of a provision permitting labor of a not substantially competitive sort among prison inmates. As the senior Senator from Utah [Mr. SMOOT] has just suggested, the vote in the Senate on that question, after consideration, was virtually unanimous.

In support of what I am endeavoring to say, I ask the attention of Senators for a moment to a letter which I have received from the National Society of Penal Information and the Welfare League Association, both founded by Thomas Mott Osborne, combined in the Osborne Association. The letter is from Mr. William B. Cox, executive secretary.

Writing on February 10, 1933, Mr. Cox said:

> THE OSBORNE ASSOCIATION,
> *New York, N. Y., February 10, 1933.*
>
> Hon. EDWARD P. COSTIGAN,
> *United States Senate, Washington, D. C.*
>
> MY DEAR SENATOR COSTIGAN: May I take this opportunity of urging you to protest against the action taken by the House of Representatives in so restricting the appropriation for prison industries, Department of Justice (H. R. 14363, p. 34, line 9, CONGRESSIONAL RECORD, January 28, 1933, p. 2768), that it will be impossible to provide any means for employing the inmates of the new Federal prison in Pennsylvania.
>
> The years 1929 and 1930 were marked by an unparalleled number of prison outbreaks. Although these outbreaks were disastrous in themselves, they serve to call attention to the futility of administering prisons on a purely custodial and punitive level. Since these outbreaks there has been a changed attitude on the part of most prison administrators, who have become aware of the necessity for adopting rehabilitative measures.
>
> These new and constructive administrative practices are now faced with a serious threat. At the very time that those responsible for the conduct of penal institutions have become convinced of the practical value of constructive rehabilitative measures, legislators and the public at large are showing a strong tendency to revert to a purely custodial level.
>
> While it is unquestionably true that the times demand governmental retrenchment, it would be most unfortunate if the ground recently gained is lost because of a failure to recognize that purely custodial care is the most expensive service which can be bestowed upon our wards. Prison labor has been particularly affected by this tendency. The end result of cutting appropriations for prison industries in order to decrease the competition of prison labor with free labor, is likely to result in a situation of far-reaching serious consequences. Depriving prisoners of an opportunity to work not only adds greatly to the cost of maintaining penal institutions but it also destroys one of the most effective agencies of rehabilitation. By creating idleness in our prisons, we increase the likelihood of riots or other disturbances with their attendant destruction of property and loss of life. In the long run such a policy is penny wise and pound foolish.
>
> I am thoroughly familiar with the occupational program of the Department of Justice as well as that of most of the States. The Federal prison labor policy is a very conservative one, giving every consideration to the rights of free labor and private industry, as is evidenced by the fact that it has been indorsed by the American Federation of Labor and organized industry. It would be a calamity to change the fundamental principles of this program by yielding to the wishes of a single group of manufacturers.
>
> Faithfully yours,
>
> WM. B. COX, *Executive Secretary.*

Mr. President, the letter is sufficiently convincing for reasons of compelling public importance, and I trust that the amendment of the Senate committee will be sustained.

Mr. BULKLEY. Mr. President, I hope that Senators will not be misled into thinking there is any great national issue or any pending national calamity involved in voting down this amendment. It is a relatively small amendment, but in principle it is important, because it affects an industry that is peculiarly distressed, and this particular year is a bad time to start labor-saving machinery in penal institutions. There is involved no question whatever of the employment of convicts generally. It simply averts a particular kind of competition for the one year.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 36, line 22, the committee proposes to strike out the proviso down to and including the word "equipment," in line 1, on page 37, as follows:

> *Provided*, That no part of this appropriation shall be used for the procurement and/or installation in any Federal correctional or penal institution of machinery for the manufacture of metal furniture and/or metal office equipment.

Mr. KING. Mr. President, a responsibility which may not be ignored rests upon both the Federal and State Governments to adopt and carry into execution humane and just

policies in dealing with delinquents. Too little attention was given for centuries to the subject, penology; indeed, until very recently the question of prison reform was given but scant attention. For centuries persons convicted of offenses were treated in the most cruel and inhuman manner. We read with amazement, if not with horror, the reports which have come to us concerning the treatment of prisoners in European countries as well as in our own land. Prisons were in too many cases dark dungeons which bred disease and hastened the death of those imprisoned. The idea seemed to prevail that a person branded as a felon was to be regarded as permanently incorrigible; indeed, as a leper for whom there was no future. But in recent years courageous men and women have given serious study to the question of prison reform and to the policies which should be adopted in dealing with persons convicted of offenses.

There has come a change in the views of the people as to the method to be employed in dealing with persons who violate the law. Cruel and inhuman punishment has been found does not meet the situation. It has been discovered that it seldom reforms the person punished, and too often sends him forth from behind prison walls with anger in his heart and enmity toward government and individuals. With a study of psychology, of the causes of behavior, of the complex social, economic, and industrial conditions, there has developed the conviction that past methods of dealing with violators of law have failed in part, at least, in their purpose. During the past few years there has been a great increase in law infractions among young boys and girls. Juvenile delinquency has greatly increased.

In view of this situation it is apparent that there is a heavy responsibility resting upon governments, and those charged with law enforcement and with caring for delinquents. More and more it is becoming apparent that our penal institutions must be conducted with a view to reformation of character.

While there must be punishment for offenses, there must be wisdom and mercy and sanity, not only in the administration of criminal laws but in dealing with offenders after they have been brought within the cognizance of the laws. Our penal institutions must be constructed and operated having in view the reformation of those charged with law violation. They must be corrective and reformatory. Regard must be had for the age of the offender and the causes which led to the commission of the offense. Persons of immature years must not be placed in the same category with old offenders or those who have been repeated violators of law. Our penal institutions should have in view, as I have indicated, the rehabilitation of the moral qualities and character of those charged with crime. In some of the modern penal institutions it has been demonstrated that permanent reforms in the lives and characters of individuals have been effected. It has been shown that perhaps a majority of those convicted of offenses were not criminals at heart. In many cases the offenses were accidental or the result of temporary emotional outbreaks. They did not come from a malignant heart or from a disposition or desire to violate the law or injure society. In my opinion, some persons who have been imprisoned for law violations should have been treated for mental disorders and placed in institutions devoted to such purposes.

Mr. President, it has become a serious question, in view of the large number of persons who are now confined in prisons and correctional institutions, as to what disposition should be made of them during the period of their confinement. It has been proven that to treat them harshly or to keep them in solitary confinement or to give them no duties or employment whatever produces most unsatisfactory results. Idleness in confinement perhaps more seriously injures character than when freedom is enjoyed. Our penal institutions must, if reforms are to be effected, adopt policies that will not only permit but bring about character building and moral reformation. In my opinion, the overwhelming majority of those who are sent to our penal institutions would, if wise and humane methods were adopted in dealing with offenders, emerge from their confinement imbued with the desire to engage in useful and honorable employment and assume a proper place in the social organization.

I appreciate the fact that laws have been enacted which prevent contract labor from entering into competition with free labor. I am not criticizing those enactments. I do insist, however, that in the penal and correctional institutions which are being erected and which the Federal and State Governments now operate, there must be plans devised and carried into execution which will save the characters of those confined and afford them full opportunity of casting off improper desires or habits and equipping them, when they shall be free from confinement, to occupy useful positions in the economic and industrial life of the people.

I am not offering these observations as relevant to the question raised by the Senator from Ohio [Mr. BULKLEY], although in view of the nature of the institution which the Federal Government has established in Pennsylvania it would seem that some provision should be made to furnish employment to those confined therein.

Mr. DAVIS. Mr. President, it is highly important that we find work for those who are confined in our penal institutions, but it seems to me more humane to find work for our own unemployed or to keep at work those who are now employed. To spend $40,000 for installing machinery to give work to from 150 to 200 of the 1,200 incarcerated in Lewisburg, and drive out practically a like number of workers from a competitive industry, is to my mind wrong.

Mr. President, how would you like to be employed, working part time, and have your employer say to you, in the morning, "Your service will be no longer needed because the Government is giving your work to those who are in prison," and further to find out that our penal institutions are going to be mechanized to continue to compete with private business?

As I understand the plan of the Department of Justice it is that the steel-file industry has no competition and that the Government therefore is justified in becoming a competitor. The manufacture of metal files here in this country is a new industry. The Government of the United States for 100 years has been more or less jealous of the rights of a new industry. We have protected new industries by tariff rates from competition abroad. Now is the time in this day, with nearly 12,000,000 men and women walking the streets out of employment, to deny this appropriation and thus protect this young industry from prison labor.

Mr. President, I have high regard for Mr. Bates, who is one of the world's foremost penologists. However, in these days, when millions are unemployed, I am not in accord with him when he wants to close down a part of private business and add to the millions of unemployed. Putting the free man out of work would probably mean the loss of his home, if he has one, or necessitate his seeking public relief for himself and family, while those who are incarcerated at Lewisburg are receiving three meals a day and a bed from the richest government in the world.

I am in favor of the language in the bill as it passed the House, and I hope the Senate will vote down the Senate committee amendment.

Mr. FESS. Mr. President, I feel like apologizing to the Presiding Officer and to Members of the Senate for detaining them longer on this item, but I think there ought to be some emphasis placed upon the suggestion made by the junior Senator from Utah [Mr. KING]. Therefore, I am going to utilize my right to occupy a little time.

The whole course of legislation on this subject for the last 10 years has been to relieve free labor or paid labor from competitition with prison labor. Last year a climax was reached, after years of consideration, where we regulated through the interstate commerce power the sale of goods that are made by prison labor in competition with free labor. When it came to the vote it was pretty nearly unanimous. As Senators will recall, we even denied the right of the State to employ its own prison labor in public-road build-

ing where it was a Federal-aid road. I doubted the wisdom of that provision. I thought a State ought to be permitted to employ its prison labor out in the open air where the work was road building. But the conviction here was so strong that we ought not to put those two forces in competition that we went even to that extent.

In my own State we responded to the efforts to employ prison labor; in fact, we have a State farm where a certain grade of prisoners are kept out on the farm in the open air to do several things that do not come in competition with free or paid labor in the open market. But here is a case where a new industry is involved. The Senator from Utah [Mr. KING] suggests that the new reformatory at Lewisburg is one of the finest that can be found, and that is true. Because it is a fine place, we propose apparently to introduce new prison labor, new employment in competition with free or paid labor. I am just as responsive to the humanitarian call of employing labor in prison as anyone in this Chamber, but I do not want to do that at the cost of humanity outside of the prison that ought to be employed. It seems to me, in the light of what we have done in the past, that we ought not to take advanage of this new movement to begin the manufacture of an article of furniture, whether it be of wood or metal, when it does come in competition with the products of free labor or labor that is employed in the various States. It seems to me that the chairman of the committee ought to agree to restore the House language in this particular item.

Mr. SMOOT. Mr. President, Mr. Bates has taken into consideration the conditions existing in the country to-day. Congress authorized the making of shoes for governmental requirements; and this item means that only 4 per cent of the shoes required by the Government will be produced by this institution.

In the case of metal furniture it is proposed to manufacture just about 4 per cent of the million dollars' worth required by the Government.

It seems to me that Congress never ought to have passed the legislation authorizing these activities at these institutions unless they intended that the machinery, which is there already, should be used, or additional machinery should not be procured. The committee took that position, and I think the committee is perfectly right about it.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

Mr. GEORGE. Mr. President, I ask that the amendment may be stated.

The VICE PRESIDENT. There are two amendments. The Secretary will state the first amendment.

The LEGISLATIVE CLERK. On page 36, line 22, it is proposed to strike out the proviso down to and including the word "equipment" in line 1, on page 37, as follows:

Provided, That no part of this appropriation shall be used for the procurement and/or installation in any Federal correctional or penal institution of machinery for the manufacture of metal furniture and/or metal office equipment.

Mr. GEORGE. I desire to offer an amendment, but I do not think it would be appropriate to that particular amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee. [Putting the question.] By the sound the "noes" seem to have it.

Mr. SMOOT and Mr. DICKINSON asked for a division.

On a division, the amendment of the committee was rejected.

The VICE PRESIDENT. The question recurs on the second amendment, which will be stated.

The LEGISLATIVE CLERK. On page 37, line 1, at the end of the paragraph, the committee proposes to insert the following proviso:

Provided, That $400,000 of the prison industries working capital fund shall, on or before June 30, 1933, be covered into the Treasury of the United States to the credit of "Miscellaneous receipts."

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

Mr. GEORGE. Mr. President, I desire to offer an amendment to the amendment. At the end of the amendment just stated I move to strike out the period and insert a colon and the following words:

Provided, That no part of the prison industries working capital fund during the fiscal year ending June 30, 1934, shall be used for the purchase of yarn from private industry for the manufacture of cotton duck.

Mr. President, I want to explain just what the amendment means. In the Atlanta Penitentiary, as a part of the program to provide employment for the prisoners, there has been established a duck mill. Duck manufacture is peculiar in that the machinery used in the making of wide duck is not adaptable for the manufacture of other textiles. Consequently the competition of the wide-duck mill at the Atlanta Penitentiary is most disastrous. Moreover, a negligible man power is used in the manufacture of wide duck.

Mr. SMOOT. Mr. President, will the Senator read the amendment again.

Mr. GEORGE. I was proceeding to explain why I offered the amendment. It reads as follows:

Provided, That no part of the prison industries working capital fund during the fiscal year ending June 30, 1934, shall be used for the purchase of yarn from private industry for the manufacture of cotton duck.

The words "Atlanta Penitentiary" may be added if desired.

Mr. SMOOT. In other words, the amendment would prohibit the purchase from private concerns of certain kinds of yarn made into duck?

Mr. GEORGE. It would prohibit the duck mill in the Atlanta Penitentiary from buying yarns from the outside and converting them into duck at that mill.

Let me explain. In the Atlanta Penitentiary they have spindles to make yarn; but they do not confine themselves to manufacturing the yarn they thus produce; they have extended their operations, and go on the outside and buy yarn, bring it into the penitentiary, and manufacture it into duck. So that wide duck made by the Atlanta Penitentiary has perhaps reached from 21 to 25 per cent of the Government's entire production of wide duck. It is a fearful competition, and the business is so limited and restricted that the competition is disastrous to the private duck manufacturers.

In the penitentiary they have the machinery for making yarn; every bit of the yarn they make there may be used for wide duck; we are not complaining about that, and my amendment does not restrict them in that respect; but it does provide that during the next fiscal year they shall not buy yarn on the outside and convert it into duck. They can, however, convert into duck all the yarn they may manufacture.

Mr. SMOOT. How will they keep their looms going if they can not make a sufficient quantity of yarn themselves and can not go outside and buy yarn?

Mr. GEORGE. Let me tell the Senator that they can manufacture in the penitentiary one-fifth of all the yarns that they use on their own looms. They buy about four-fifths, but the yarns bought are not by any means all used in the manufacture of wide duck; they are used for all the other products manufactured in the mill at the Atlanta Penitentiary.

Mr. SMOOT. The yarn purchased on the outside has been used in the past in making duck, has it not?

Mr. GEORGE. Not exclusively by any means.

Mr. SMOOT. Not exclusively; but they use in the prison industries more yarn than they can make; and by whatever amount they are prevented from securing on the outside, their activities will be curtailed to that extent.

Mr. GEORGE. The Senator does not quite understand me. They make one-fifth of the yarn which they now use in the penitentiary.

Mr. SMOOT. They make that much themselves and purchase additional quantities on the outside.

Mr. GEORGE. They make a great many other things, and the amendment does not provide any restriction on the purchase of yarn for the manufacture of anything else they may want to manufacture in that mill; but it is not fair

to bring the sharp competition against the manufacturers of wide duck for the reason that the actual investment per man, so I am advised, of the private mills engaged in the manufacture of wide duck runs from $4,000 to $5,000. The machinery used for wide duck can not be converted and used for the manufacture of other textiles, and therefore the competition is peculiarly sharp and peculiarly unfair.

The amendment will not prevent the use of all the machinery in the Atlanta mill which it may be desired to use, but they must not buy any yarn on the outside for the manufacture of duck. In other words, the duck they make in the Atlanta mill must be made of yarn which they, themselves, produce; but they may buy yarns on the outside and use them for the manufacture of other materials in the penitentiary mill.

Mr. SMOOT. Evidently they have not made sufficient yarn in the mill to manufacture wide duck.

Mr. GEORGE. I am not quite sure of that.

Mr. SMOOT. If they have, I do not see any necessity of the amendment.

Mr. GEORGE. That is true; I want to say to the Senator that if the amendment shall be accepted, and go to conference, I want it to work this one purpose, namely, that the Atlanta penitentiary mill shall not manufacture wide duck in excess of the yarn they themselves produce.

Mr. SMOOT. I understand that, and that is exactly what I say, that in the past I think the mill has been buying yarn on the outside to be manufactured into duck and the looms which they have can not be kept running merely with the yarn produced in the penitentiary itself.

Mr. GEORGE. They may buy all the yarn they please with which to make any other material in the mill.

Mr. SMOOT. But not wide duck.

Mr. GEORGE. Not wide duck. It does seem entirely fair, just, and reasonable that the wide duck manufacture in the mill at the penitentiary be restricted to the yarn output of the mill itself because of some of the facts which I have brought to the attention of the Senate. In 1932, according to the report submitted to Mr. Staub, secretary of the Cotton Duck Association, by Mr. Bennett, Assistant Director of the Bureau of Prisons of the Department of Justice, the production of the cotton-duck mill in the Atlanta Penitentiary was 3,947,513 pounds.

But it is to be noted that this total poundage includes light and heavyweight canvas duck, both in the numbered and ounce goods. It also includes other products such as nainsook, sheeting, and drills, also ticking and light prison-uniform material. In other words, the wide duck is by no means the entire production of the Atlanta mill and the restriction is against the purchase of yarn on the outside to be made into this one product.

Mr. SMOOT. It might, of course, prevent them from buying any yarn on the outside and using it in manufacture, but if the Senator from Maine wishes to accept the amendment I shall not object.

Mr. GEORGE. I think the Senator from Utah is wrong.

Mr. SMOOT. It can not be otherwise.

Mr. GEORGE. It can be otherwise. I have stated to the Senate that if the amendment is accepted I am perfectly willing that the conferees may so arrange it as to prevent the expansion of the manufacture of wide duck in the Atlanta penitentiary; in other words, to limit it to its present production—and I think that is entirely fair. Otherwise, they probably may simply absorb the entire wide duck market.

Mr. SMOOT. I understand the situation, and if the Senator having the bill in charge desires to let the amendment go to conference, I shall offer no objection at all.

Mr. HALE. Mr. President, I am entirely willing to let the amendment go to conference and be considered by the conferees.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Georgia to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. COSTIGAN. Mr. President, I desire to enter a motion to reconsider the action of the Senate in reference to lines 22 to 25 on page 36, and a portion of line 1 on page 37.

The VICE PRESIDENT. That motion will be entered.

The reading of the bill was resumed.

The next amendment was, on page 83, after line 19, to insert:

Regulation of interstate transportation of black bass: To enable the Secretary of Commerce to carry into effect the act entitled "An act to amend the act entitled 'An act to regulate interstate transportation of black bass, and for other purposes,' approved May 20, 1926" (U. S. C., Supp. V, title 16, secs. 851–856), approved July 2, 1930 (46 Stat. pp. 845–847), $13,950, of which not to exceed $1,800 may be expended for personal services in the District of Columbia.

Mr. KING. Mr. President, I inquire of the Senator whether all of the amendments on the intervening pages have been disposed of.

Mr. McKELLAR. There are no amendments on those pages.

The VICE PRESIDENT. This is the next amendment.

Mr. KING. I should like to make an inquiry as to the reason for this appropriation.

Mr. McKELLAR. Unfortunately, the Congress has authorized the expenditure; and, in the usual way, the persons concerned have appeared before the Appropriations Committee and made a demand that the committee carry out the direction of the Congress.

Mr KING. Does the Senator mean that if Congress has made an improvident recommendation in the form of a statute, we are bound to make an appropriation?

Mr. McKELLAR. That is the usual course. Whenever the Congress passes a bill and authorizes an appropriation, we are expected to carry it out in the Appropriations Committee. That is why I have fought these authorization bills to the extent that I have.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The reading of the bill was resumed.

Mr. KING. Mr. President, the next subdivision deals with the Patent Office. I appreciate that any efforts to reduce the inordinately high appropriations carried for that organization will at this late hour and with the haste which is demanded in the consideration of this bill not be possible. I feel certain, however, that if proper consideration were given to this provision of the bill, and all relevant facts presented, the appropriation would be materially reduced. I have no doubt that if the Patent Office were properly operated and a satisfactory and efficient administration prevailed, the appropriation provided in this subdivision could be reduced at least 50 per cent. The bill carries $3,176,250 for salaries and some incidental expenses of the Patent Office. There is a further item of $30,000 for the purchase of books, $250,000 for the production of copies of weekly issue of drawings, and so forth, and other appropriations aggregating $900,000 for printing the weekly issue of patents.

Mr. President, for many years prior to 1922 the fees received by the Patent Office from the public exceeded the expenses of the bureau. My recollection is, that during the period of more than 50 years prior to 1932, this excess or surplus was more than $8,000,000. I should add, however, that during the fiscal year 1918 when the World War was in progress, there was a deficit of less than $80,000. However, since 1922 the Patent Office has expended more money than the fees or receipts paid to it. During this period, the Government fees charged incident to the filing and issuance of patents, have been increased. Perhaps this increase was necessary to meet the growth and increased expenditures of the Patent Office. There should, however, be no deficit. The Patent Office, if economically and efficiently administered, should have been self-sustaining, if it did not yield a surplus to be covered into the Treasury. The aggregate deficit, however, since 1922 has been several million dollars. I do not have the figures before me, as I did not know this bill was to be before the Senate to-day. It is evident that these deficits are continuing, as is shown by

the appropriation of several million dollars provided in the bill before us, to meet the operating expenses of the Patent Office during the next fiscal year.

Many complaints have come to me, Mr. President, concerning the delays in the Patent Office concerning applications for patents, and in dealing with preliminary and intermediate questions involved in patent proceedings. I recall that in 1929 the Commissioner of Patents reported that applications awaiting action amounted to more than 103,000. It was claimed that the Patent Office was clogged in part due to unsatisfactory methods and procedure. My recollection is that in the fiscal year 1929 there were approximately 87,000 applications for patent filed and 43,600 patents issued. In 1930, as I recall, the applications awaiting examination were over 118,000, or approximately 7,000 more than in 1929. I have examined graphs which indicate the mounting costs in the Patent Office, the condition of work in the office, the applications filed during various years, the applications considered for each examiner per year, the applications awaiting action covering a number of years, figures showing surpluses and deficits for a number of years, and which also present data bearing upon the activities of the Patent Office.

Mr. President, I sincerely hope that the next administration will deal with this agency of the Government, and that it will result in reforms imperatively needed. I hope that the next President of the United States, under the authority which I hope will be given him, will make important changes in some branches of the personnel and material modifications in the working and procedure of the Patent Office. In my opinion, Mr. President, Congress has neglected to effectively, not to say drastically, deal with this organization during the past 10 or 12 years. But I believe the day is near at hand when the work of reorganization will be undertaken and consummated.

The VICE PRESIDENT. The clerk will continue the reading of the bill.

The reading of the bill was resumed.

The next amendment was, on page 98, line 13, to change the total appropriation for the Bureau of Mines from $1,464,300 to $1,514,300.

The amendment was agreed to.

The next amendment was, under the subhead "Children's Bureau," on page 104, line 25 after the word "expenses," to strike out "$344,000" and insert "$308,550," and on page 105, line 1, after the word "exceed," to strike out "$285,450" and insert "$250,000," so as to read:

Salaries and expenses: For expenses of investigating and reporting upon matters pertaining to the welfare of children and child life, and especially to investigate the questions of infant mortality; personal services, including experts and temporary assistants; traveling expenses, including expenses of attendance at meetings for the promotion of child welfare when incurred on the written authority of the Secretary of Labor; purchase of reports and material for the publications of the Children's Bureau and for reprints from State, city, and private publications for distribution when said reprints can be procured more cheaply than they can be printed by the Government, and other necessary expenses; $308,550, of which amount not to exceed $250,000 may be expended for personal services in the District of Columbia.

Mr. NYE. Mr. President, I desire to urge that the House figures be retained in preference to the figures which have been proposed by the Senate committee. I therefore ask that the Senate committee amendment be rejected.

Mr. KING. Mr. President, I hope the Senator will not urge that, for this reason: The Senator from Maryland [Mr. TYDINGS] is not in the Chamber to-night. He is interested in that matter. I do not want to call for a quorum; but if the Senator insists upon the retention of the House figures—which, of course, he has a perfect right to do, and I have no criticism of his action—I shall feel constrained to call for a quorum.

Mr. NYE. I know of many Senators who are interested in the proposal I am making who are not here to-night. I am sorry they are not, but I am going to be compelled——

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. NYE. I am glad to yield.

Mr. McKELLAR. I wonder if the Senator would not be willing to let the amendment go to conference as it is. I believe, looking at it as I see it, that that probably would be the best way to handle the matter.

Mr. NYE. Mr. President, if I would be free to assume that those who are offering this suggestion are not overly insistent on the Senate committee amendment, I should feel constrained to do that.

Mr. McKELLAR. Of course, it would not be a free conference if anybody made a promise about it ahead of time, and I know that no member of the conference committee would under any circumstances do a thing like that; but, looking at the matter as I see it, I think it would be a wiser course to let the amendment go to conference.

Mr. NYE. Very well, Mr. President. I shall withdraw my proposal, then, and let the matter go to conference; but I hope it will not go with the RECORD indicating that the Senate is insistent upon the amendment which the committee has proposed.

Mr. KING. I hope it will not go with any implied promise that the Senate conferees are not going to insist upon the committee amendment.

Mr. McKELLAR. I assure the Senators that there will be no implied promise about it.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The VICE PRESIDENT. That completes the committee amendments.

Mr. DAVIS. Mr. President, I should like to have my amendment stated. It is at the desk.

The VICE PRESIDENT. The Senator from Pennsylvania offers an amendment, which will be stated.

The CHIEF CLERK. On page 88, line 16, strike out "$614,000" and insert "$741,000."

Mr. KING. I offer an amendment to the amendment, to strike out the figures submitted, as well as the House figures, and insert in lieu thereof "$550,000."

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Utah to the amendment of the Senator from Pennsylvania.

The amendment to the amendment was rejected.

Mr. SMOOT. I hope the amendment of the Senator from Pennsylvania will be rejected also.

Mr. DAVIS. Mr. President, I am satisfied that Senators are not familiar with this particular appropriation.

Mr. President, the appropriations for safety work in the Bureau of Mines have undergone extensive reductions—so extensive, in fact, as to lay the Congress open to the charge of negligence of a contributory nature.

In 1931 Congress appropriated $769,170; in 1932, $793,180; in 1933 the appropriation dropped to $741,325; and it is now proposed to reduce that sum for safety work in 1934 $127,000.

I am informed by the safety division of the Bureau of Mines that by reason of the curtailed appropriation last year six mine rescue cars were withdrawn from the service; and if the $614,000 appropriation stands for the next fiscal year, the remaining four will be withdrawn. Mr. President, that means that there will be no mine-rescue cars in the largest coal-producing State in the Union—Pennsylvania.

It is thoroughly understood, of course, that this appropriation is for the operating of mine rescue cars and stations and investigation of mine accidents; for the investigation and improvement of mine rescue and first-aid methods and appliances and the teaching of mine safety, rescue, and first-aid methods; investigations as to the causes of mine explosions, causes of falls of roof and coal, methods of mining, especially in relation to the safety of miners, the appliances best adapted to prevent accidents, the possible improvements of conditions under which mining operations are carried on, the use of explosives and electricity, the prevention of accidents, statistical studies and reports relating to mine accidents, and other inquiries and technologic investigations pertinent to the mining industry; the exchange in part payment for operation, maintenance, and repair of

mine rescue trucks; the construction of temporary structures and the repair, maintenance, and operation of rescue cars and Government-owned mine rescue stations and appurtenances thereto.

I assume my colleagues are interested to know specifically just how the appropriation for mine safety and rescue work was spent in the foregoing years. I shall cite but one example, which is typical. In 1931 the Division of Safety trained 112,230 miners in first-aid and mine rescue work; in 1932, 99,163 miners were trained, and it is estimated that by the end of the current fiscal year 65,000 miners will have been so instructed. It will be observed that there has been a steady decrease in this all-important instruction, and the Director of the Bureau of Mines forecasts that not in excess of 33,000 miners can be given this training in the fiscal year 1934 if the proposed appropriation is written into the act.

We are interested in safety in mines. Thirty-two States and the Territory of Alaska produce coal. Those of us who live in the coal-mining sections know what it means to make the mines safe for workers and employers.

We do not know what day a major accident will occur. I recall in my youth one of the worst accidents that ever occurred in a mining area where I resided. Hundreds of men were trapped in a mine when an explosion occurred. It affected nearly every home in the community. There were no mine rescue crews, no relief of any kind other than what the mine itself could give, no modern service as we know it now. In my memory, I not only see the victims being carried from the shaft on improvised stretchers, but I can see a common funeral. It was a tragic day in the community, a holiday of broken hearts and spirits. Such an accident is liable to again occur, and for us to be short of mine rescue crews, or to have them tied up as some of them are at present, is not practical economy, but almost criminal negligence.

The Secretary of Commerce informed me that four of the mine rescue cars under the jurisdiction of the Bureau of Mines have been tied up, and at present there is not a mine rescue car in operation west of the Mississippi River. We know that the distance between the various mining fields in the West is so great that the cost of transporting the cars would make a prohibitive drain on the depleted funds now available for travel. When there is even a minor accident, and the Government is unable to send relief, the people will not listen to the cry of economy. Let us not reduce the field forces of the safety division of the Bureau of Mines.

Reducing these appropriations would materially cripple their usefulness and hamper their accident-prevention work. The Bureau of Mines now contacts approximately 300,000 persons in mining and allied industries annually. I will not take the time right now to read a letter which I received from the Director of Mines, but believe it would be a good idea to have it printed as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES DEPARTMENT OF COMMERCE,
BUREAU OF MINES,
Washington, December 6, 1932.

Hon. JAMES J. DAVIS,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Your letter dated Washington, D. C., November 30, 1932, regarding the effect of decreases in the allotments for the health and safety work of the United States Bureau of Mines has been received.

Since the decreased appropriations have been in effect but five months, their full effect in the curtailment of these types of work is not yet evident or available. However, a few of the effects are readily given:

Four of the mine rescue cars have been tied up and at present there isn't a mine rescue car in operation west of the Mississippi River, as the distances between the various mining fields in the West are so great that the railroad fares in moving the cars would have made a prohibitive drain on the depleted funds now available for travel.

The greatly reduced allotments for travel and supplies have forced numerous restrictions on the field forces of the safety division and this materially cripples their utility. One of the most effective means of putting up-to-date safety data and safety and accident-prevention work before the mine operators and mine workers has been that field men of the safety division, when supplied with ample travel funds, came into personal contact with approximately 300,000 persons in the mining and allied industries annually, and this has been found to be by far the most effective method of actually "putting over" up-to-date ideas on mine safety. This widespread personal contact is not possible under the decreased allotments, and one of the immediate effects will probably be that instead of training about 100,000 mine workers in first aid and mine rescue as has been done annually for the past several years, the number so trained for the present fiscal year will probably be but slightly over 50,000, certainly not as high as 75,000.

In many places the field work of the forces of the safety division requires considerable travel by automobile, as much of the work is done in small out-of-the-way places and at night. With the heavily depleted allotments for supplies and equipment it is not possible to provide automobiles for many of those who need them in their work; in some cases this prevents the first-aid and accident-prevention work from being done and in several cases the field men, some of them receiving but $1,740 per year, have purchased their own machines and use them in doing this life-saving work.

In one case when the decreased allotments made it desirable (almost necessary) to discontinue the payment of rent for one of the Bureau of Mines safety stations, and it was decided to move the station to another place where Federal space was available, the movement of the station was resisted by various interests, and in connection with the final decision to remain half of the rent for the safety station was assumed by two employees of the Bureau of Mines.

In the past, the policy of the bureau has been to maintain its various belongings in excellent physical condition, and this, of course, was particularly true of the structures and equipment of the safety division. The fact that everything was in most excellent condition at the beginning of the present fiscal year, with its curtailment of funds, will allow of operating this year without much necessity for repairs, replacements, or new purchases of supplies or equipment, but the continuance of the lowered allotments or the greater lowering of them can not fail to entail serious consequences in trying to maintain the health and safety work of this organization.

Cordially yours,

SCOTT TURNER, *Director.*

Mr. DAVIS. Mr. President, I am in receipt of a telegram from Mr. Thomas Kennedy, secretary of the United Mine Workers of Hazleton, Pa., in the heart of the anthracite-coal region, which reads as follows:

HAZLETON, PA., *February 6, 1933.*

Hon. JAMES J. DAVIS,
Senate Office Building:

In appropriation bill now pending in Congress it is contemplated to reduce appropriation for Bureau of Mines to extent of $127,000. In the allocation of this reduced appropriation it is believed that the safety work of the bureau will be seriously impaired. Express hope that contemplated reduction can be eliminated or modified so that Bureau of Mines will secure sufficient appropriation with which to carry on its work—include its very important safety work. Would urge your cooperation to the end desired.

THOMAS KENNEDY.

How will the employer and worker feel when they find the appropriation for safety cut? Every worker will know of it, and what will he say? How would you feel, as a miner going down into the earth to mine coal when you knew the Government had failed to appropriate money to have a car come to your rescue if an explosion or accident would take place? These men think about that. We can talk economy all we want to, but economy ought not to be achieved at the expense of humanity. At this time there is no sound reason for us to deny the Bureau of Mines sufficient funds to carry on its safety work.

The VICE PRESIDENT. The motion is on agreeing to the amendment offered by the junior Senator from Pennsylvania [Mr. DAVIS].

The amendment was rejected.

Mr. KING. Mr. President, the bill under consideration was only brought to the attention of Senators within the past hour, and I doubt whether half a dozen Senators have read it or are familiar with its provisions. In hastily running through the bill during the reading of its provisions by the clerk, I misapprehended the nature of the item to which the Senator from Pennsylvania has just been speaking. The amendment which I offered, reducing the appropriation of the item in question, was submitted under a misapprehension as to the purpose and scope of the item in question. I would not have offered the amendment if I had known the purpose for which the appropriation was sought.

With reference to the bill as a whole, Mr. President, as I have hastily examined its provisions, I do not hesitate to say

that it contains many items of appropriation that in my opinion may not, in view of the condition of the Treasury, be justified. Nearly every subdivision of the bill contains excessive appropriations aggregating several millions of dollars. If the Senate lived up to the statements not infrequently heard in this Chamber that we must balance the Budget, that economies must be introduced into the departments of the Government, and that cuts must be made in appropriations, this bill, instead of carrying items aggregating more than $103,000,000, would have carried appropriations not exceeding $75,000,000. In other words, Mr. President, the total appropriations provided in the bill under consideration should not have exceeded the amount just stated. I protest against what I conceive to be the improvident, not to say extravagant, appropriations which are found in the measure before us.

I regret that the Senator from Maine is compelled to leave the Senate within the next hour or so, owing to the serious illness of his brother. His anxiety to complete consideration of the bill is therefore justified. The Senate also is desirous of speeding the passage of the appropriation bills before adjournment; and this attitude of mind prevents proper consideration of the appropriation bills brought to our attention carrying, as they do, billions of dollars.

It is true that the President, through the Bureau of the Budget, has recommended appropriations in excess of those that have been reported by the appropriations committees of the House and Senate; but notwithstanding the reported reductions submitted by the appropriations committees, I can not help but believe that they have not sufficiently reduced appropriations, and that the aggregate appropriations recommended will exceed by several hundred million dollars the total amount which should be appropriated.

Mr. President, it is my belief that we are not carrying out our platform pledges, and are failing to introduce those economies, and effect those administrative reforms, which are so imperatively needed in the Federal Government. Senators have been eloquent in denouncing Federal extravagance and waste, in condemning useless bureaus and duplication in Federal activities; they have earnestly protested their determination to support measures that would reduce the expenses of the Government and bring about reorganizations and reforms in substantially all of the executive departments; but as the appropriation bills and other measures are brought before us for consideration it is becoming manifest that the promised reforms are not being effected, and that the demanded economies are not being realized.

The Federal Government is still operating in the track which it followed in 1926, 1927, 1928, and 1929. Indeed, I believe the appropriations which we will make for the next fiscal year will exceed those carried in the appropriation bill for the fiscal year ending June 30, 1928. It seems impossible when Federal organizations are created and official machinery is set in motion to bring about changes, to reduce the established mechanism and abolish Federal administrative and executive instrumentalities. The pressure from many quarters is so great that successful resistance to the same seems impossible.

Frequently attention has been challenged to the enormous increase in appropriations for the Department of Commerce, and from the declared opposition to these enormous increases one would have supposed that the appropriation for this department for the next fiscal year would have been reduced 40 or 50 per cent; but the bill before us carries an appropriation for the Department of Commerce amounting to more than thirty-six and one-half million dollars. Only a few years ago this organization consisted of but a corporation bureau, with an appropriation of only a few hundred thousand dollars; but it has, almost overnight, assumed gigantic proportions and calls for an appropriation greatly in excess of what is required.

The policy of the party in power during the past few years has resulted in a serious decline in our foreign trade and commerce. Our exports have shrunk billions of dollars annually. Imports have likewise been materially reduced. Policies are being urged by Republican leaders, as well as by many Democrats, which, if carried into effect, will practically destroy our foreign markets and cut us off commercially from the rest of the world. Notwithstanding the enormous heights of existing tariffs, demands are made for still higher duties; and not satisfied with present tariff walls, Congress is urged to create embargoes against all imports.

As I have stated, though our foreign commerce is rapidly approaching the vanishing point, millions of dollars are carried by this bill to furnish positions for hundreds of Federal employees, ostensibly to promote foreign trade. In one moment we urge tariffs and embargoes and the next moment appropriate millions to promote foreign trade. If it were not for the insistence of Senators that this bill be passed within the next hour, I should submit a number of motions with respect to specific items in this bill not only carrying appropriations for the Department of Commerce but for the Department of Labor and the Department of Justice.

I repeat, Mr. President, that this bill should be carefully examined by Senators before it is finally passed, and that many reductions should be made in items of appropriations, the total of which should be not less than $25,000,000.

Mr. President, in my opinion, the Department of Labor is subject to criticism for the unnecessary demands which it has made for appropriations in the past and for the next fiscal year. The bill before us carries, as I have stated, more than $12,646,000 for this department. One would suppose that the Department of Labor would earnestly seek economies, and the elimination of unnecessary bureaus and agencies; but I submit that a critical examination of this bill reveals that it has not pursued the course indicated. The amount carried in the bill for the Bureau of Immigration is, I submit, in excess of all legitimate demands. A few years ago hundreds of thousands of immigrants landed upon our shores annually and the duties of the department was thereby increased. My recollection is that for a number of years the number of immigrants annually coming to the United States exceeded 1,000,000. Recent legislation has restricted immigration so that less than 150,000 may legally enter the United States. There is too much machinery in the Department of Labor—too many organizations. The personnel is too large, and the cost of the department is entirely too great.

If time permitted I should refer to some of what I conceive to be unwarranted and arbitrary proceedings of some branches of the Labor Department. I sincerely hope that under the new administration there will be a thorough reorganization of the Labor Department, a consolidation of the activities of groups and agencies and bureaus therein, and important economies brought about.

Mr. President, many complaints have been brought to me with respect to the agency set up in the Department of Labor known as the Employment Service. I supported the plan which called for cooperation between the States and the Federal Government in finding employment in this period of depression. A large appropriation was made at the last session of Congress, and it was hoped that the Federal agencies that would be established by reason of the appropriation would properly function and cooperate in every way with State agencies. Information which I have indicates that this agency has taken on a partisan and political complexion; that persons have been employed who were not efficient, and some of whom were concerned in political activities. The able Senator from New York [Mr. WAGNER], as I am advised, intended to have something to say upon this item when this bill was under consideration, but he is absent from the Chamber at this time. I have examined some of the salaries paid to employees in this service and learned of some of the persons who have been, and still are, upon the pay roll. I wish that a better record might have been made than that which I think has been written. I can only express the hope that in the near future this organization will be made effective and that it will be purged of any partisan or political complexion.

I move to strike out of the bill lines 22 to 25, inclusive, on page 106, all of page 107, and lines 1, 2, and 3 on page 108,

being the appropriation carried for the United States Housing Corporation.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. The Senator from Utah proposes to strike out, beginning with line 23, on page 106, down to and including line 3, page 108, as follows:

UNITED STATES HOUSING CORPORATION

Salaries and expenses: For officers, clerks, and other employees, and for contingent and miscellaneous expenses, in the District of Columbia and elsewhere, including blank books, maps, stationery, file cases, towels, ice, brooms, soap, freight and express charges, communication service, travel expense, printing and binding not to exceed $150, and all other miscellaneous items and expenses not included in the foregoing and necessary to collect and account for the receipts from the sale of properties and the receipts from the operation of unsold properties of the United States Housing Corporation, the Bureau of Industrial Housing and Transportation, property commandeered by the United States through the Secretary of Labor, and to collect the amounts advanced to transportation facilities and others; for payment of special assessments and other utility, municipal, State, and county charges or assessments unpaid by purchasers, and which have been assessed against property in which the United States Housing Corporation has an interest, and to defray expenses incident to foreclosing mortgages, conducting sales under deeds of trusts, or reacquiring title or possession of real property under default proceeding, including attorney fees, witness fees, court costs, charges, and other miscellaneous expenses; for the maintenance and repair of houses, buildings, and improvements which are unsold; in all, $13,195: *Provided*, That no person shall be employed hereunder at a rate of compensation exceeding $4,000 per annum, and only one person may be employed at that rate: *Provided further*, That no part of the appropriations heretofore made and available for expenditure by the United States Housing Corporation shall be expended for the purposes for which appropriations are made herein.

The amendment was agreed to.

Mr. KING. Mr. President, I now move to recommit the bill, with instructions to reduce the aggregate appropriations therein 10 per cent.

The motion was rejected.

Mr. KING. Mr. President, I do not want to call for a division. I merely want to say that, in view of our loud protestations in favor of economy, I believed that the motion which I just made would be carried, but it is evident that we talk a great deal about economy, but do not get results.

Mr. GEORGE. Mr. President, in view of the notice of intention to make a motion to reconsider the vote by which the committee amendment on page 36, line 22, was rejected, I desire to state that in voting upon that amendment I intended to vote to sustain the action taken by the committee, but due to my misunderstanding, from the form in which the question was stated, I am advised that I voted against the amendment recommended by the committee. I merely wished to make this statement at this time, in view of the pending motion to reconsider the vote.

Mr. COSTIGAN. Mr. President, I desire at this time to move to reconsider the action taken by the Senate in failing to sustain the committee amendment on page 36, lines 22 to 25, and a portion of line 1, on page 37.

May I merely say to the Senate that, if the action of the committee is sustained, this particular feature of the bill will go to conference. The statement by the able Senator from Georgia [Mr. GEORGE] ought to give pause to anyone here who is in doubt on the subject. The previous vote on division was apparently carried by a majority of only one, and it is my hope that without further argument the Senate will now reconsider its action and sustain the committee amendment.

Mr. BULKLEY. Mr. President, there is no principle involved as to the employment of prison labor. The only question involved in the amendment is whether, in this time of supreme depression, a new prison industry is to be started with labor-saving machinery so that convicts may work on labor-saving machines instead of by hand, going so far even as to provide paint-spraying machinery and singling out the industry of metal office furniture, which is a small industry, in the nature of an infant industry almost, subject to the most exceptional difficulties under the present depression, because practically nobody is opening up new offices and acquiring new furniture equipment.

I hope the Senate will understand that this is only to defer to another time an investment in labor-saving machinery. The convicts will not be any worse off than they have been hitherto, because this is an entirely new proposition.

Mr. MOSES. Mr. President, will the Senator permit an interruption?

Mr. BULKLEY. Certainly.

Mr. MOSES. We are just opening the new penitentiary at Lewisburg, where no provision whatever has been made for the useful occupation of the convicts. Does the Senator wish those men to remain in idleness?

Mr. BULKLEY. The Director of Prisons claims he is going to employ about 10 per cent of those convicts, and that is all. That is all that is involved here. Whatever he is going to do with the other 90 per cent he can do with this 10 per cent. In order to employ those he proposes an attack on an industry that is already subject to the greatest difficulty.

Mr. MOSES. His attack goes to the point, as I remember, of one-tenth of 1 per cent of the total production of the country.

Mr. BULKLEY. I do not think that is right. There have been some figures submitted to that effect, and there are other figures submitted to the contrary. I think it is much higher than the Senator has indicated.

The VICE PRESIDENT. The question is on the motion of the Senator from Colorado [Mr. COSTIGAN] to reconsider the vote by which the amendment of the committee was rejected.

On a division, the motion was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. TYDINGS. Mr. President, in view of the fact that the chairman of the committee is very anxious to get away I am reluctant to detain the Senate even for a moment. I shall therefore be very brief.

There is an appropriation on page 26 of $8,440,000 for prohibition enforcement. I would like to take some time to discuss it, but not wishing to hold the Senator from Maine here, I am going to move that the figures "$8,440,000" be stricken out and "$4,220,000" be inserted in lieu thereof.

The VICE PRESIDENT. The question is on the amendment of the Senator from Maryland.

The amendment was rejected.

Mr. TYDINGS. Mr. President, in the subcommittee which took up the bill we did cut off 10 per cent. We had a very good cause for cutting off 10 per cent. Subsequent to that the full committee restored the full amount by a very close vote. Therefore I move that the numerals "$8,440,000" be stricken out and the numerals "$7,700,000" in lieu thereof. This is a little less than a 10 per cent reduction. I hope the Senate will save at least that much in this appropriation at a time when the Budget is unbalanced, when we are going behind about $2,000,000,000 this year. I hope that at least we can cut down this appropriation a bare 10 per cent.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Maryland.

On a division, the amendment was rejected.

Mr. TYDINGS. Mr. President, I think we ought to cut this amount down somewhat. Therefore, in order to save even a small sum, I move that the numerals "$8,440,000" be stricken out and the numerals "$8,000,000" be inserted in lieu thereof.

The VICE PRESIDENT. The question is on the amendment of the Senator from Maryland.

On a division, the amendment was rejected.

Mr. TYDINGS. Mr. President, I have one more amendment. I move that the numerals "$8,440,000" be stricken out and "$8,400,000" be inserted in lieu thereof. This would constitute a saving of $40,000.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Maryland.

On a division, the amendment was rejected.

The VICE PRESIDENT. The question is, Shall the amendments be engrossed and the bill be read a third time?

Mr. KING. Mr. President, I submitted a motion a few moments ago to recommit the bill with instructions to reduce the aggregate amount appropriated by 10 per cent. That motion was defeated. I now move to recommit the bill with instructions to the committee to report back the bill carrying 5 per cent less than the aggregate amount now carried in the bill.

The VICE PRESIDENT. The question is on the motion of the Senator from Utah.

The motion was rejected.

Mr. HALE. Mr. President, I ask that the clerks be authorized to correct the totals in the bill.

The VICE PRESIDENT. Without objection, that order will be made. The question is, Shall the amendments be engrossed and the bill be read a third time?

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

APPROPRIATIONS FOR EXECUTIVE OFFICE, ETC.

Mr. SMOOT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill (H. R. 14458) making appropriations for the Executive office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1934, and for other purposse.

Mr. LA FOLLETTE. Mr. President, the Senator from Utah apparently does not realize that there is already unfinished business before the Senate. I yielded to the Senator from Maine [Mr. HALE] in order that he might leave tonight, as it is necessary for him to go away. I think I shall have to ask that the Senate proceed with the unfinished business to-morrow and let us see how we can get along with it.

Mr. SMOOT. There are only a few amendments to this appropriation bill. To-morrow I shall ask the Senator to lay aside temporarily the unfinished business that we may consider the appropriation bill to which I have referred.

Mr. LA FOLLETTE. Mr. President, I now ask that the unfinished business be laid before the Senate.

The VICE PRESIDENT. The Chair lays the unfinished business, Senate bill 5125, before the Senate.

RELIEF OF DESTITUTION

The Senate resumed the consideration of the bill (S. 5125) to provide for cooperation by the Federal Government with the several States in relieving the hardship and suffering caused by unemployment, and for other purposes.

REPORT OF THE COMMITTEE ON APPROPRIATIONS—LEGISLATIVE APPROPRIATION BILL

Mr. HALE, from the Committee on Appropriations, to which was referred the bill (H. R. 14562) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1934, and for other purposes, reported it with amendments and submitted a report (No. 1242) thereon.

AMENDMENT TO INDEPENDENT OFFICES APPROPRIATION BILL

Mr. ROBINSON of Arkansas submitted an amendment intended to be proposed by him to House bill 14458, the independent offices appropriation bill, which was ordered to lie on the table and to be printed, as follows:

On page 22, line 8 (in the items for the Federal Trade Commission), to strike out "$780,000" and insert "$1,081,500"; in line 13, to strike out "$10,000" and insert "$20,000"; and in line 14, to strike out "$790,000" and insert "$1,101,500."

(Statement: This gives the Federal Trade Commission a total of about $8,000 less than the amount recommended by the Bureau of the Budget and makes the appropriation for printing $20,000, as recommended by the Bureau of the Budget.)

DEATH OF REPRESENTATIVE GOODWIN, OF MINNESOTA

A message from the House of Representatives by Mr. Haltigan, one of its clerks, communicated to the Senate the intelligence of the death of Hon. GODFREY G. GOODWIN, late a Representative from the State of Minnesota, and transmitted the resolutions of the House thereon.

The VICE PRESIDENT. The Chair lays before the Senate the resolutions of the House of Representatives, which will be read.

The Chief Clerk read the resolutions as follows:

IN THE HOUSE OF REPRESENTATIVES,
February 16, 1933.

Resolved, That the House has heard with profound sorrow of the death of Hon. GODFREY G. GOODWIN, a Representative from the State of Minnesota.

Resolved, That a committee of two Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now stand in recess until 8 o'clock p. m.

Mr. SHIPSTEAD. Mr. President, I submit the resolutions which I send to the desk and ask for their adoption.

The resolutions (S. Res. 362) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. GODFREY G. GOODWIN, late a Representative from the State of Minnesota.

Resolved, That a committee of two Senators be appointed by the Vice President to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The VICE PRESIDENT appointed Mr. SHIPSTEAD and Mr. SCHALL as the committee on the part of the Senate under the second resolution.

RECESS

Mr. SHIPSTEAD. Mr. President, as a further mark of respect to the memory of the deceased Representative, I move that the Senate take a recess until to-morrow at 12 o'clock.

The motion was unanimously agreed to; and (at 6 o'clock and 10 minutes p. m.) the Senate took a recess until to-morrow, Friday, February 17, 1933, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

THURSDAY, FEBRUARY 16, 1933

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

In the beginning God—back of the heroisms, of the loves, of the tragedies, of the emotions with their weepings and their laughters—behold, Thou art there. O Thou who art the judge of all the earth, because Thou art, there must be wisdom and love dominant over all. In the twilight of our imperfect knowledge help us to climb the altar stairs toward Thee. In the great realm of our Christian faith, may we find that which shall enable us to set in motion the great forces which are fundamental to our institutions and to our individual lives. Over the tumult and over the restless sea of our national life may we hear Thee calling and see Thy right hand. We wait in sorrow, we wait in our humiliation, and we wait in our self-reproach. Almighty God, we are most grateful for the preservation of the life of our President elect, and we rejoice to-day that there are no tears to dry, no wounds to bind, and no sufferer to tend and bless. Amen.

The Journal of the proceedings of yesterday was read and approved.